BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE CEMETERY AND FUNERAL BUREAU
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **MIGUEL MARIN** **3158 Sequoia Drive #D** **South Gate, CA 90280** **Inglewood Park Cemetery, Cemetery Salesperson License No. CES 46385** **Live Oak Memorial Park, Cemetery Salesperson License No. CES 46647** Respondent.	Case No. A1 2014 223 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 17, 2015, Complainant Lisa M. Moore, in her official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs[1], filed

[1]. Effective January 1, 1996, the Department of Consumer Affairs succeeded to, and was vested with, all the duties, powers, purpose, responsibilities and jurisdiction of the Cemetery Board and the Board of Funeral Directors and Embalmers, and consolidated the functions into the Cemetery and Funeral Programs. Effective January 1, 2001, the regulatory agency is designated as the Cemetery and Funeral Bureau.

Accusation No. A1 2014 223 against Miguel Marin (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about September 21, 2012, the Cemetery and Funeral Bureau issued Cemetery Salesperson License Number CES 46385 to Miguel Marin ("Respondent"). The Cemetery Salesperson License was in full force and effect until it expired on June 30, 2014. Respondent subsequently renewed the license and it will now expire on June 20, 2015, unless renewed again.

3. On or about November 30, 2012, the Cemetery and Funeral Bureau issued Cemetery Salesperson License Number CES 46647 to Respondent. The Cemetery Salesperson License was in full force and effect at all times relevant to the charges brought herein, expired on June 30, 2013, was not renewed, and is cancelled.

4. On or about April 14, 2015, Respondent was served by Certified and First Class Mail copies of the Accusation No. A1 2014 223, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 971 and California Code of Regulations, title 16, section 2304, is required to be reported and maintained with the Bureau. Respondent's address of record was and is: 3158 Sequoia Drive #D, South Gate, CA 90280.

5. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.

6. On or about April 27, 2015, the aforementioned documents were returned by the U.S. Postal Service marked "No such Number -- Unable to Forward." The address on the documents was the same as the address on file with the Bureau. Respondent failed to maintain an updated address with the Bureau and the Bureau has made attempts to serve the Respondent at the address on file. Respondent has not made himself available for service and therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

7. On or about May 12, 2015, out of an abundance of caution, Respondent was again served by Certified and First Class Mail copies of the Accusation No. A1 2014 223, Statement to

Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at two additional addresses found in Respondent's file with the Bureau. Those addresses are: (1) 3158 Sequoia Drive South Gate, CA 90280; and (2) 3156 Sequoia Drive #D, South Gate, CA 90280.

8. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.

9. On or about June 11, 2015, the aforementioned documents were returned by the U.S. Postal Service marked "Unclaimed -- Unable to Forward." The addresses on the documents were additional addresses found in Respondent's file with the Bureau. Respondent failed to maintain an updated address with the Bureau and the Bureau has made multiple attempts to serve the Respondent at the addresses on file. Respondent has not made himself available for service and therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

10. Government Code section 11506 states, in pertinent part:

> (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

11. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. A1 2014 223.

12. California Government Code section 11520 states, in pertinent part:

> (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

13. Pursuant to its authority under Government Code section 11520, the Director finds Respondent is in default. The Director will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on

file at the Director's offices regarding the allegations contained in Accusation No. A1 2014 223, finds that the charges and allegations in Accusation No. A1 2014 223, are separately and severally, found to be true and correct by clear and convincing evidence.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Miguel Marin has subjected his Inglewood Park Cemetery, Cemetery Salesperson License No. CES 46385 and his Live Oak Memorial Park, Cemetery Salesperson License No. CES 46647 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Director of Consumer Affairs is authorized to revoke Respondent's Inglewood Park Cemetery, Cemetery Salesperson License and his Live Oak Memorial Park, Cemetery Salesperson License No. CES 46647 based upon the following violation alleged in the Accusation which is supported by the evidence contained in the Default Decision Evidence Packet in this case: Business and Professions Code § 9727.1 [Procuring License by Fraud/ Misrepresentation/ Deceit].

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ORDER

IT IS SO ORDERED that Inglewood Park Cemetery, Cemetery Salesperson License No. CES 46385, heretofore issued to Respondent Miguel Marin, is revoked.

IT IS FURTHER ORDERED that Live Oak Memorial Park, Cemetery Salesperson License No. CES 46647, heretofore issued to Respondent Miguel Marin, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 8, 2015.

It is so ORDERED July 8, 2015

Doreathea Johnson
DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

51815876.DOC
DOJ Matter ID:LA2014513170

Attachment:
Exhibit A: Accusation