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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** Cemetery Salesperson License No. CES 46385 Cemetery Salesperson License No. CES 46647 Respondent.	Case No. A1 2014 223 **ACCUSATION**

Complainant alleges:

PARTIES

1. Lisa M. Moore ("Complainant") brings this Accusation solely in her official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs.

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

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in full force and effect at all times relevant in the charges brought herein, expired on June 30, 2013, was not renewed, and is cancelled.

JURISDICTION

4. This Accusation is brought before the Director of Consumer Affairs ("Director") for the Cemetery and Funeral Bureau, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Code section 9725 states:

"Upon grounds provided in this article [Article 6 (commencing with section 9725)], and the other articles of this act, the license of any cemetery licensee and the certificate of authority of any cemetery corporation may be revoked or suspended in accordance with the provisions of this article."

6. Code section 118, subdivision (b) provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Bureau of jurisdiction to institute a disciplinary proceeding against the licensee during any period in which the license may be renewed or reinstated. Under Code section 9731, the Bureau may renew an expired license at any time within one year after its expiration.

STATUTORY PROVISION

7. Code section 9727.1 states:

"The bureau may suspend or revoke the license of any cemetery licensee who procures a cemetery license, for himself or herself or any salesperson, by fraud, misrepresentation or deceit. An action to suspend or revoke a license for a violation of the provisions of this section shall be commenced within three years after the discovery by the bureau of that violation."

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Bureau may request the administrative law judge to direct the licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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CAUSE FOR DISCIPLINE

(Procuring Licenses by Fraud/Misrepresentation/Deceit)

9. Respondent is subject to disciplinary action under Code section 9727.1 in that Respondent procured his cemetery salesperson licenses by fraud, misrepresentation, and/or deceit. Specifically, on two separate cemetery salesperson license applications, dated August 31, 2012, and November 15, 2012, respectively, Respondent falsely answered "no" to the question: "have you ever had any professional or vocational license or registration denied, suspended, revoked, placed on probation or other disciplinary action taken by this or any other governmental authority in this state or any other state, or any foreign country?"

11. In a Decision and Order by the California Department of Real Estate, effective June 20, 2007, in a case entitled *In the Matter of the Accusation of Miguel Marin* (Case No. H030948 LA), Respondent's real estate salesperson license was revoked. The facts and circumstances underlying the Decision and Order are as follows:

a. On or about June 7, 2001, while performing acts requiring a real estate license, Respondent accepted a $2,000 payment from a buyer, did not turn these funds over to his employing broker, and misappropriated the $2,000 for his personal use and benefit without the knowledge and permission of the buyer.

b. On or about November 20, 2001 and December 12, 2001, Respondent, while performing acts requiring a real estate license, accepted $8,395 from a buyer, did not turn these funds over to his employing broker, did not refund the money when requested, and misappropriated the $8,395 for his personal use and benefit without the knowledge and permission of the buyer.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Cemetery and Funeral Bureau issue a decision:

1. Revoking or suspending Cemetery Salesperson License Number CES 46385, issued to Miguel Marin;

2. Revoking or suspending Cemetery Salesperson License Number CES 46647, issued to Miguel Marin;

3. Ordering Miguel Marin to pay the Cemetery and Funeral Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

4. Taking such other and further action as deemed necessary and proper.

DATED: March 17, 2015

LISA M. MOORE
Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

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