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

In the Matter of the Statement of Issues Against: FRANK FARJEAT aka FRANK FARGEAT JR. and FRANK FARGEAT, Respondent.	Case No.: A1 2013 53 OAH No.: 2013100757

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Director of the Department of Consumer Affairs the decision in the above-entitled matter, except that pursuant to the provisions of Government Code section 11517, subdivision (c)(2)(C), the first paragraph of the ORDER appearing on page 3 of the Proposed Decision, is hereby modified for technical reasons as follows:

"ORDER

The application submitted by respondent Frank Farjeat (also known as Frank Fargeat Jr. and Frank Fargeat) for a Cemetery Salesperson License is granted and a license is hereby issued, however said license is immediately revoked; provided, however the revocation is stayed and respondent is placed on probation for a period of five years on the following terms and conditions:"

The terms and conditions of probation specified in the Proposed Decision of the Administrative Law Judge are not amended, modified or otherwise altered. The technical change made above does not affect the factual or legal basis of the Proposed Decision.

This Decision shall become effective on July 17, 2014.

IT IS SO ORDERED this 17th day of June, 2014.

Doreathea Johnson

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

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

In the Matter of the Statement of Issues Against: FRANK FARJEAT aka FRANK FARGEAT JR. AND FRANK FARGEAT Respondent.	Case No. A1 2013 53 OAH No. 2013100757

PROPOSED DECISION

Humberto Flores, Administrative Law Judge, Office of Administrative Hearings, heard this matter in Los Angeles, California, on March 27, 2014.

William Gardner, Deputy Attorney General, represented complainant.

Frank Farjeat (respondent) appeared at hearing and represented himself.

Evidence was received at the hearing, and the matter was submitted for decision.

FACTUAL FINDINGS

1. Lisa M. Moore (complainant) issued the Statement of Issues in her official capacity as Bureau Chief of the Cemetery and Funeral Bureau (Bureau), Department of Consumer Affairs (Department), State of California.

2. On March 27, 2012, respondent submitted an application to the Bureau for a Cemetery Salesperson's license. The Bureau denied the application on April 5, 2013.

3. On November 29, 2005, in the Superior Court of California, County of Los Angeles (Case No. FSB046929), respondent entered guilty pleas and was convicted of violating the following Penal Code sections: (1) seven felony counts charging violations of section 487 subdivision (d)(1), grand theft; (2) three felony counts charging violations of section 459, commercial burglary; (3) two felony counts charging violations of section 530.5, identity theft; and (4) one felony count charging a violation of section 470, subdivision (d), forgery. The court sentenced respondent to serve two years in state prison. The facts and circumstances underlying

the convictions are that, while operating a vehicle dealership, respondent received funds from Wells Fargo Bank without processing title changes to the subject vehicles. Respondent also engaged in identity theft to obtain auto loans.

4. On November 18, 2005, in the Superior Court of California, County of Los Angeles (Case No. VA077931), respondent entered guilty pleas and was convicted of violating the following Penal Code sections: (1) one felony count charging a violation of section 487 subdivision (d)(1), grand theft; (2) two felony counts charging violations of section 470, subdivision (d), forgery; (3) one felony count charging a violation of section 475. Forgery; and (4) one felony count charging a violation of section 664/487, attempted grand theft. The court sentenced respondent to serve two years in state prison, concurrent with the sentence imposed by the Superior Court in Case No. FSB046929. The facts and circumstances underlying the convictions are that, while operating a vehicle dealership, respondent received funds from Wells Fargo Bank without processing title changes to the subject vehicles. Respondent also engaged in identity theft to obtain auto loans.

5. On March 25, 2005, in the Superior Court of California, County of San Bernardino, respondent entered a plea of guilty and was convicted of violating Penal Code sections 530.5, identity theft, and 487 subdivision (d)(1), grand theft. Both offenses are felonies. The court sentenced respondent to serve two years in state prison, concurrent with the prison term imposed by the Los Angeles Superior Court. The facts and circumstances underlying the convictions were that respondent engaged in identity theft to obtain loans.

6. On October 1, 1993, in the Superior Court of California, County of Los Angeles (Case No. 3258904), respondent entered guilty pleas to 22 counts charging violations of Penal Code section 487, subdivision (a), grand theft; and one felony count charging a violation of Penal Code section 182, subdivision (a)(4), conspiring to defraud. Respondent was sentenced on January 11, 1994. Imposition of sentence was suspended and respondent was placed on probation for three years on the condition that he serve 365 day in the county jail, and pay restitution to the victims in the amount of $268,425.33. Respondent complied with the conditions and completed his probation. Respondent testified that his family helped him to pay the restitution. The fact and circumstances underlying the conviction were that respondent accepted insurance premium payments from individuals and failed to process their insurance applications.

7. Respondent presented evidence of rehabilitation. After being released from prison in 2006, respondent worked for a real estate company (Century 21) as a marketing representative for six years. When the real estate market slowed, respondent obtained employment as a door-to-door canvasser for California Cemetery and Funeral, a company headquartered in Houston, Texas, with an office known as Oakdale Memorial Park located in Glendale, California. Respondent has performed well in his past and present employment. His supervisor at Century 21, Maria Perez, testified that respondent was an outstanding employee whom she trusted. Ms. Perez also wrote a reference letter wherein she attested to respondent's hard work, motivation and positive outlook.

8. Respondent also introduced evidence of a stable family life. He currently lives with his mother and spends his spare time as her caregiver. He also spends time with and provides financial support for his young daughter. In addition, respondent is an active participant in church. In fact, the pastor of his church (Pastor Frank Garcia of the Calvary Chapel in Chino Hills) wrote a character reference letter stating that respondent "has developed into a hardworking, committed, faithful man with integrity and great character."

9. Respondent admitted and took responsibility for his past criminal conduct. He testified that he did not learn his lesson after his 1994 conviction because he was not punished enough. According to respondent, a lengthy prison sentence would have provided a valuable lesson. He stated that the best thing that happened to him was being sent to prison in 2005. It was a life changing experience. Respondent is remorseful for his past behavior and stated that he is no longer the same selfish man. He spends his time working, taking care of his mother, spending time with his daughter, and attending church services and related activities.

LEGAL CONCLUSIONS

1. Cause exists to deny respondent's application for Cemetery Salesperson License under Business and Professions Code section 480, subdivision (a)(1), based on respondent's convictions set forth in Factual Findings 3 through 6.

2. Cause exists to deny respondent's application for Cemetery Salesperson License under Business and Professions Code section 480, subdivision (a)(2), based on respondent's past dishonest conduct as set forth in Factual Findings 3 through 6.

3. Respondent has established rehabilitation to the extent that the public would be adequately protected by the issuance of a probationary license.

ORDER

The application submitted by respondent Frank Farjeat (also known as Frank Fargeat Jr. and Frank Fargeat) for a Cemetery Salesperson License is denied; provided, however, the a probationary license shall be issued to respondent for five years on the following terms and conditions:

1. <u>Obey All Laws</u>

Respondent shall comply with all conditions of probation and obey all federal, state, and local laws, and all rules and regulations governing the programs regulated by the department.

2. **Quarterly Reports**

Respondent shall submit quarterly declarations under penalty of perjury, in a format designated by the department, stating whether or not respondent has been in compliance with all the conditions of probation. Respondent shall also submit such additional written reports and verifications of actions requested by the department. Should the final probation report not be made as directed, the period of probation shall be extended until such time as the final report is made.

3. **Interview with Department Representative**

As necessary, respondent shall appear in person for scheduled interviews with the Director or other designated representative for the purpose of monitoring compliance with the terms of this decision.

4. **Out-of-State Residence or Operation**

Should respondent leave California to reside or operate outside this state, respondent must notify the department in writing of the dates of departure and return. Reporting in person may be waived if the respondent moves out of the state. However, respondent shall continue compliance with other terms of probation to retain California licensure. Periods of residency, business operation or employment outside California shall not reduce the probationary period.

5. **Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.

6. **Violation of Probation**

Should respondent violate probation in any respect, the Director of the department, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the department shall have continuing jurisdiction until the matter is final, and the probation shall be extended until the matter is final.

7. **License Issued During Probation**

Any license or registration issued to respondent by the department during the period of probation shall be issued as a probationary license or registration and is subject to all the terms and conditions set forth herein. Respondent must comply with terms and conditions herein and demonstrate no cause for disciplinary action or denial of an application.

8. **Evidence of Knowledge**

Respondent shall provide evidence satisfactory to the department that the licensee and all employees are knowledgeable in the laws and regulations governing the funeral industry, if deemed necessary by the policy chief or department director.

9. **Community Service**

Within 60 days of the effective date of this decision, respondent shall submit to the Department, for its approval, a community service program for the first year of probation in which respondent shall provide volunteer services on a regular basis to a **non-profit** community or charitable facility or agency for at least 80 hours per year for the first year. Such community service shall be non-funeral related.

10. **Ethics**

Within 30 days of the effective date of this decision, respondent shall submit for prior Department approval a course of ethics which will be completed within the first year of probation.

DATED: May 23, 2014

Humberto Flores

HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General
WILLIAM D. GARDNER
Deputy Attorney General
State Bar No. 244817
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2114
Facsimile: (213) 897-2804
Attorneys for Complainant

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

In the Matter of the Statement of Issues Against: **FRANK FARJEAT aka FRANK FARGEAT JR. and FRANK FARGEAT** **Cemetery Salesperson License Applicant** Respondent.	Case No. A1 2013 53 **FIRST AMENDED STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

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

2. On or about March 27, 2012, the Cemetery and Funeral Bureau received an application for a/an Cemetery Salesperson License from Frank Farjeat aka Frank Fargeat Jr. and Frank Fargeat (Respondent). On or about February 1, 2012, Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Bureau denied the application on April 5, 2013.

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JURISDICTION

3. This Statement of Issues 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.

4. Section 480, subdivision (a),of the Code states, in pertinent part:

"A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

. . . .

FIRST CAUSE FOR DENIAL OF APPLICATION

(*Criminal Conviction*)

5. Respondent's application is subject to denial under section 480, subdivision (a)(1), in that Respondent was convicted of a crime substantially related to the qualifications, functions and/or duties of a licensed cemetery salesperson, as follows:

a. On or about November 29, 2005, in the criminal proceeding entitled The People of the State of California v. Frank Fargeat Jr. (Super. Ct. Los Angeles County, 2003, No. VA079678), Respondent entered pleas of guilty and was convicted of one felony count of violating Penal Code section 487(d)(1) [grand theft], two felony counts of violating Penal Code section 470 [forgery], one felony count of violating Penal Code section 475(c) [forgery], and one felony count of violating Penal Code section 664-487 [attempted grand theft]. Respondent was sentenced to two (2) years in jail.

b. On or about November 18, 2005, in the criminal proceeding entitled The People of the State of California v. Frank Fargeat Jr. (Super. Ct. Los Angeles County, 2003, No. VA077931), Respondent entered pleas of guilty and was convicted of seven felony counts of violating Penal Code section 487(a) [grand theft], three felony counts of violating Penal Code section 459 [2nd degree commercial burglary], two felony counts of violating Penal Code section 530.5(a) [identity theft], and one felony count of violating Penal Code section 470(d) [forgery]. Respondent was sentenced to two (2) years in jail.

c. On or about March 25, 2005, in the criminal proceeding entitled The People of the State of California v. Frank Fargeat (Super. Ct. San Bernardino County, 2003, No. FSB046929), Respondent entered pleas of guilty and was convicted of one felony count of violating Penal Code section 530.5(a) [identity theft] and one felony count of violating Penal Code section 487(a) [grand theft]. Respondent was sentenced to two (2) years in jail. Pursuant to a plea agreement, the following additional felony charges were dismissed: one count of violating Penal Code section 530(a) [identity theft], two counts of violating Penal Code section 532(a)(1) [making false financial statement], and two counts of violating Penal Code section 459 [commercial burglary].

d. On or about January 11, 1993, in the criminal proceeding entitled The People of the State of California v. Frank Fargeat (Super. Ct. Los Angeles County, 1992, No. 3258904), Respondent entered a plea of guilty and was convicted of one felony count of violating Penal Code section 487(a) [grand theft]. Respondent was sentenced to one (1) year in jail and placed on probation for a period of three (3) years.

SECOND CAUSE FOR DENIAL OF APPLICATION

(*Dishonest Act*)

6. Respondent's application is subject to denial under section 480, subdivision (a)(2), in that Respondent engaged in an act involving dishonesty, fraud and/or deceit with the intent to substantially benefit himself or another, or to substantially injure another. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 5, subparagraphs a through c, inclusive, as though set forth fully herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Denying the application of Frank Farjeat aka Frank Fargeat Jr. and Frank Fargeat for a Cemetery Salesperson License;

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

DATED: March 25, 2014

Lisa M. Moore

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

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KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General
WILLIAM D. GARDNER
Deputy Attorney General
State Bar No. 244817
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2114
Facsimile: (213) 897-2804
Attorneys for Complainant

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

In the Matter of the Statement of Issues Against: **FRANK FARJEAT aka FRANK FARGEAT JR. and FRANK FARGEAT** **Cemetery Salesperson License Applicant** Respondent.	Case No. A1 2013 53 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

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"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

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6. Respondent's application is subject to denial under section 480, subdivision (a)(2), in that Respondent engaged in an act involving dishonesty, fraud and/or deceit with the intent to substantially benefit himself or another, or to substantially injure another. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 5, subparagraphs a through c, inclusive, as though set forth fully herein.

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WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

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1. Denying the application of Frank Farjeat aka Frank Fargeat Jr. and Frank Fargeat for a Cemetery Salesperson License;

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

DATED: September 18, 2013

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

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