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8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE CEMETERY AND FUNERAL BUREAU**
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation Against:

Case No. *A1 2015 7*

13 **SUNRISE MEMORIAL CEMETERY**
ASSOCIATION, INC.
14 **2201 Sacramento Street**
Vallejo, CA 94590

A C C U S A T I O N

15 **Certificate of Authority No. COA 39**

16 Respondent.
17

18 Complainant alleges:

19 PARTIES

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

22 2. On or about May 1, 1950, the Cemetery and Funeral Bureau (Bureau) issued
23 Certificate of Authority Number COA 39 to Sunrise Memorial Cemetery Association, Inc.
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25
26 ¹ Effective January 1, 1996, the Department of Consumer Affairs succeeded to, and was vested
27 with, all the duties, powers, purpose, responsibilities and jurisdiction of the Cemetery Board and
28 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.

1 (Respondent). The Certificate of Authority was in full force and effect at all times relevant to the
2 charges brought in this Accusation and will expire on January 1, 2016, unless renewed.

3 JURISDICTION

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

7 4. Section 118, subdivision (b) provides that the suspension, expiration, surrender, or
8 cancellation of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary
9 action during the period within which the license may be renewed, restored, reissued or
10 reinstated.

11 RELEVANT STATUTES AND REGULATIONS

12 5. Section 9723 states, in part:

13 “A cemetery licensed under this chapter shall at all times employ a licensed cemetery
14 manager to manage, supervise, and direct its operations. Notwithstanding any other provision of
15 this chapter, licensed cemeteries within close geographical proximity of each other may request
16 the bureau to allow a licensed cemetery manager to manage, supervise, and direct the business or
17 profession of more than one facility.

18 “(a) Every cemetery shall designate a licensed cemetery manager to manage the cemetery,
19 and shall report the designation to the bureau within 10 days of the effective date. Any change in
20 the designated manager shall be reported to the bureau within 10 days.

21 “(b) The designated cemetery manager shall be responsible for exercising direct
22 supervision and control over the operations, employees, and agents of the cemetery as is
23 necessary to ensure full compliance with the applicable provisions of the Business and
24 Professions Code, the Health and Safety Code, and any regulations adopted thereto. Failure of the
25 designated cemetery manager or the licensed cemetery to exercise that supervision or control
26 shall constitute a ground for disciplinary action.

27”

28 //

1 6. Section 9725 states:

2 “Upon grounds provided in this article and the other articles of this act, the license of any
3 cemetery licensee and the certificate of authority of any cemetery corporation may be revoked or
4 suspended in accordance with the provisions of this article.”

5 7. Section 9725.1 states:

6 “Unprofessional conduct by any licensee or registrant or by any agent or employee of a
7 licensee or registrant constitutes grounds for disciplinary action. Unprofessional conduct
8 includes, but is not limited to, the following:

9 “(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
10 violation of this chapter and any regulation adopted thereunder, or of any federal or state law or
11 regulation governing the disposition of human remains, operation of cemeteries or crematories,
12 the sale of cemetery property, or the sale of crematory services or commodities.

13 “(b) Negligence in performing any act related to the operation of a cemetery or crematory.”

14 8. Code of Regulations, title 16, section 2326.5, subdivision (a) states:

15 “Licensed cemeteries, upon approval by the Bureau, may designate a licensed cemetery
16 manager to manage more than one licensed cemetery under the following conditions:

17 “(a) The license cemeteries are under common ownership;

18 ”

19 9. Code of Regulations, title 16, section 2333 states, in part:

20 ...

21 “(b) Each endowment care cemetery shall perform, at a minimum, the following
22 maintenance on its cemetery property:

23 “(1) Trim or mow grass and prune shrubs and trees in and around the cemetery. Grass shall
24 be trimmed or mowed to a level where flat markers of individual graves can be seen.

25 “(2) Suppress or remove weeds on the developed cemetery property.

26 “(3) Provide a sufficient supply of water to keep cemetery grass and plants as green as
27 seasonally possible in accordance with natural terrain, availability of water, and local or county
28 ordinances regarding water use.

1 “(4) Repair or restore improvements, structures and fences on the property which are
2 owned by the cemetery.

3 “(5) Keep cemetery roads seasonally accessible and repair surfacing which presents a
4 hazard.

5 “(6) Keep all occupied crypts and niches properly sealed or closed.

6 “(7) Refill or reset settled graves and markers annually, or within 120 days of the cemetery
7 office becoming aware of the issue.

8 “(8) Repair any grave marker, monument, or burial vault that is damaged by the negligence
9 of the cemetery or its employees or contractors.

10 “(9) Supply and empty trash receptacles when filled, and keep public areas of the cemetery
11 grounds and water features clear of trash and debris.

12 “(10) Provide clear delineation of undeveloped cemetery property with the use of signage.

13 “(11) Control vermin and insect problems.

14 ...

15 “(d) Notwithstanding subdivision (b), the care and maintenance of each cemetery may vary
16 depending upon the cemetery size, location, topography and type of interments.

17 ...”

18 COST RECOVERY

19 10. Section 125.3 provides, in part, that the Bureau may request the administrative law
20 judge to direct a licentiate found to have committed a violation or violations of the licensing act
21 to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case,
22 with failure of the licentiate to comply subjecting the license to not being renewed or reinstated.
23 If a case settles, recovery of investigation and enforcement costs may be included in a stipulated
24 settlement.

25 FIRST CAUSE FOR DISCIPLINE 26 (Cemetery Property Maintenance)

27 (Bus. & Prof. Code § 9723, subd. (b); and Cal. Code Regs., title 16, § 2333, subd. (b))

28 11. Respondent has subjected its Certificate of Authority to discipline by failing to
maintain its cemetery property in accordance with the law. (Bus. & Prof. Code § 9723, subd. (b))

1 and Cal. Code Regs., title 16, § 2333, subd. (b)). In particular, an inspection of the grounds of
2 Respondent's cemetery revealed that the grounds were in a state of poor maintenance and repair,
3 including:

4 (a) Many upright monuments were broken or lying in pieces.

5 (b) There were missing faceplates on several of the crypt fronts on the outside
6 mausoleum and one crypt was completely open.

7 (c) The sharing posts holding up the awning over the outside mausoleums were
8 unsecured, move when touched, with one post completely unattached and lying on the walkway.

9 (d) The grass was not mowed and many of the flat markers were all or partially not
10 visible because of overgrowth and debris.

11 (e) The roadways were cracked and in a progressed state of disrepair and littered with
12 fallen tree branches and landscape debris.

13 (f) The ceiling stripping on the inside mausoleum was hanging down and the floor
14 carpet showed water leak spots with green mold.

15 (g) Complete sections in the back of the cemetery are completely unmaintained and
16 many of the markers were visible amongst the overgrowth.

17 (h) The burial grounds were uneven and there were several areas of uneven and
18 sunken grounds.

19 12. During the Bureau's investigation, Respondent's cemetery manager admitted that
20 Respondent lacks the funds or staff to properly care for the cemetery grounds. He resigned his
21 position as cemetery manager the next day.

22 SECOND CAUSE FOR DISCIPLINE
23 (Designation of Cemetery Manager)
(Bus. & Prof. Code § 9723, subd. (a))

24 13. Respondent has subjected its Certificate of Authority to discipline by failing to
25 designate a licensed cemetery manager to manage Respondent's cemetery. (Bus. & Prof. Code §
26 9723, subd. (a)). In particular, Respondent's most recent cemetery manager resigned effective
27 February 3, 2015. To date, Respondent has not designated a cemetery manager as required by
28 Section 9723, subdivision (a).

1 f. On November 24, 2014, the Bureau issued Citation Number 1C 2014 254
2 against Respondent's Certificate of Authority for violating Code of Regulations, title 16, section
3 2388. The citation carried a \$2,000 fine. Respondent paid the fine on January 23, 2015.

4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
6 Accusation and, following the hearing, the Director of Consumer Affairs issue a decision:

7 1. Revoking or suspending Certificate of Authority Number COA 39, issued to Sunrise
8 Memorial Cemetery Association, Inc.;

9 2. Ordering Sunrise Memorial Cemetery Association, Inc. to pay the Cemetery and
10 Funeral Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to
11 Business and Professions Code section 125.3; and

12 3. Taking such other and further action as deemed necessary and proper.
13
14
15

16 DATED: June 10, 2015

Lisa M. Moore

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

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