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

In the Matter of the Accusation Against: **RUCKER'S MORTUARY,** **JOEL D. RUCKER, SR. PRESIDENT** Funeral Director License No. FDR 1370, **RUCKER'S MORTUARY,** **MICHAEL TODD WRIGHT, MANAGER** Funeral Establishment License No. FD 1188, **MICHAEL TODD WRIGHT** Funeral Director License No. FDR 1440, Apprentice Embalmer Registration No. AE 12820, and **BILLY ARTHUR TAFT, SR.,** Apprentice Embalmer Registration No. AE 13015, Respondents.	Case No. A1 2007 436 OAH No. 2008100914

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective July 31, 2010.

IT IS SO ORDERED this 1st day of July, 2010.

Doreathea Johnson

DOREATHEA JOHNSON
Deputy Director, Legal Affairs Division
Department of Consumer Affairs

EDMUND G. BROWN JR.
Attorney General of California
GREGORY J. SALUTE
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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: **RUCKER'S MORTUARY,** **JOEL D. RUCKER, SR. PRESIDENT** **12460 Van Nuys Blvd.** **Pacoima, CA 91331** **Funeral Director License No. FDR 1370,** **RUCKER'S MORTUARY,** **MICHAEL TODD WRIGHT, MANAGER** **12460 Van Nuys Blvd.** **Pacoima, CA 91331** **Funeral Establishment License No. FD 1188,** **MICHAEL TODD WRIGHT** **Funeral Director License No. FDR 1440** **Apprentice Embalmer Registration No. AE 12820,** **and** **BILLY ARTHUR TAFT, SR.** **12460 Van Nuys Blvd.** **Pacoima, CA 91331** **Apprentice Embalmer Registration No. AE 13015,** Respondents.	Case No. A1 2007 436 OAH No. L-2008100914 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Richard L. Wallinder, Jr. (Complainant) is the Bureau Chief of the Cemetery and Funeral Bureau. He brought this action solely in his official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Heather Hua, Deputy Attorney General.

2. Respondents Rucker's Mortuary; Joel D. Rucker, Sr., President; Michael Todd Wright, Manager; and Billy Arthur Taft, Sr., (Respondents) are represented in this proceeding by attorney Scott A. Cox, Esq., whose address is 27240 Turnberry Lane, Valencia, CA 91355

3. Rucker's Mortuary - On or about December 11, 1968, the Cemetery and Funeral Bureau issued Funeral Establishment License Number FD 1188 to Rucker's Mortuary (Respondent Rucker's Mortuary). Joel D. Rucker, Sr. is President, Wilma R. Davis is Vice-President, Michael T. Wright is Manager, and Harold Greenberg and Robert W. Jones are Board Trustees of Respondent Rucker's Mortuary. The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2010, unless renewed.

4. Michael Todd Wright - On or about October 6, 1998, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 1440 to Michael Todd Wright (Respondent Wright). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

5. On or about August 9, 2005, the Cemetery and Funeral Bureau issued Apprentice Embalmer Registration Number AE 12820 to Respondent Wright. The Apprentice Embalmer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on August 9, 2011.

6. Joel D. Rucker, Sr. - On or about August 26, 1998, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 1370 to Joel D. Rucker, Sr. (Respondent

Joel Rucker). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2010, unless renewed.

7. Billy Arthur Taft, Sr. - On or about October 14, 2005, the Cemetery and Funeral Bureau issued Apprentice Embalmer Registration Number AE 13015 to Billy Arthur Taft, Sr. (Respondent Taft). The Apprentice Embalmer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 14, 2011.

JURISDICTION

8. A First Amended Accusation Case No. A1 2007 436 was filed before the Director of Consumer Affairs (Director), for the Cemetery and Funeral Bureau (Bureau), and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on or about March 4, 2009. Respondents timely filed its Notice of Defense contesting the Accusation. A copy of First Amended Accusation No. A1 2007 436 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

9. Respondents have carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. A1 2007 436. Respondents have also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

10. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

11. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

CULPABILITY

12. Respondents understand and agree that the charges and allegations in Accusation No. A1 2007 436, if proven at a hearing, constitute cause for imposing discipline upon their respective license and/or registration.

13. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondents hereby give up their right to contest those charges.

14. Respondents agree to be bound by the Director of Consumer Affairs (Director)'s imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

15. The admissions made by Respondents herein are only for the purposes of this proceeding, or any other proceedings in which the Director of Consumer Affairs, Cemetery and Funeral Bureau, or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

16. This stipulation shall be subject to approval by the Director of Consumer Affairs or his designee. Respondents understand and agree that counsel for Complainant and the staff of the Cemetery and Funeral Bureau may communicate directly with the Director and staff of the Department of Consumer Affairs regarding this stipulation and settlement, without notice to or participation by Respondents or its counsel. By signing the stipulation, Respondents understand and agree that they may not withdraw its agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

17. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

18. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

19. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the following licenses are revoked: Funeral Director License No. FDR 1370 issued to Joel D. Rucker, Funeral Establishment License No. FD 1188 issued to Rucker's Mortuary, Funeral Director License No. FDR 1440 issued to Michael Todd Wright; Apprentice Embalmer Registration No. AE 12820 issued to Michael Todd Wright; and Apprentice Embalmer Registration No. AE 13015 issued to Billy Arthur Taft (Respondents) are revoked. **However,** the revocations are stayed and Respondents are placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondents 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.** Respondents shall submit quarterly declarations under penalty of perjury, in a format designated by the department, stating whether or not Respondents have been in compliance with all the conditions of probation. Respondents 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, Respondents shall appear in person for scheduled interviews with the director or other designated representative at their place of business or at a Southern California District office designated by the Bureau, with adequate notice, for the purpose of monitoring compliance with the terms of this decision.

4. **Out-of-State Residence or Operation.** Should Respondents leave California to reside or operate outside this state, Respondents must notify the department in writing of the dates of departure and return. Reporting in person may be waived if the Respondents move out of the state. However, Respondents 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, Respondents' license will be fully restored.

6. **Violation of Probation.** Should Respondents violate probation in any respect, the director of the Department of Consumer Affairs, after giving Respondents 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 Respondents 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 Respondents 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. Respondents must comply with terms and conditions herein and demonstrate no cause for disciplinary action or denial of an application.

8. **Cost Recovery.** Respondents shall pay the department's actual and reasonable costs of investigation and enforcement of this matter in the amount of $6,000 (Six thousand dollars). Said amount shall be paid within the first 2 years of probation. Probation shall not terminate until full payment has been made. Respondents' license shall not be renewed until the

cost recovery has been paid in full or Respondents are otherwise in compliance with a payment plan approved by the department.

9. **Provision of Records.** Respondent shall provide specific records for Bureau inspection as required

10. **Designation of Manager.** Rucker's Mortuary shall designate another manager to the establishment during the period of time Respondent Michael Todd Wright serves as an apprentice embalmer at that funeral establishment.

11. **Apprenticeship.** Any apprentice time served under embalmer Gregory Atkins shall not be credited towards an apprenticeship under Business & Professions Code section 7670.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Scott Cox, Esq. I understand the stipulation and the effect it will have on my respective license and/or registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 05/03/2010

RUCKER'S MORTUARY
JOEL D. RUCKER, SR. PRESIDENT
Funeral Director License No. FDR 1370
Respondent

DATED: 05/11/2010

RUCKER'S MORTUARY,
MICHAEL TODD WRIGHT, MANAGER
Funeral Establishment License No. FD 1188
Respondent

DATED: 05/11/2010

MICHAEL TODD WRIGHT
Funeral Director License No. FDR 1440
Apprentice Embalmer Registration No. AE 12820
Respondent

DATED: May 3, 2010

BILLY ARTHUR TAFT, SR.
Apprentice Embalmer Registration No. AE 13015
Respondent

I have read and fully discussed with Respondents Rucker's Mortuary, Joel Rucker, Michael Todd Wright, and Billy Arthur Taft the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5/11/10

Scott Cox, Esq.
Attorney for Respondents

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: May 12, 2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

HEATHER HUA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. A1 2007 436

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of the State of California
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Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the First Amended Accusation Against: RUCKER'S MORTUARY, JOEL D. RUCKER, SR., PRESIDENT 12460 Van Nuys Blvd. Pacoima, CA 91331 Funeral Director License No. FDR 1370, RUCKER'S MORTUARY, MICHAEL TODD WRIGHT, MANAGER 12460 Van Nuys Blvd. Pacoima, CA 91331 Funeral Establishment License No. FD 1188, MICHAEL TODD WRIGHT Rucker's Mortuary 12460 Van Nuys Blvd. Pacoima, CA 91342 Funeral Director License No. FDR 1440 Apprentice Embalmer Registration No. AE 12820, BILLY ARTHUR TAFT, SR. Rucker's Mortuary 12460 Van Nuys Blvd. Pacoima, CA 91331 Apprentice Embalmer Registration No. AE 13015, GREGORY WENDELL ATKINS 5500 Foothill Blvd. Oakland, CA 94605 Embalmer License No. EMB 7340 Funeral Director License No. FDR 2285	Case No. A1 2007 436 **FIRST AMENDED ACCUSATION**

BAKER-WILLIAMS MORTUARY,
GREGORY WENDELL ATKINS, OWNER and MANAGER
980 8th Street
Oakland, CA 94607
Funeral Establishment License No. FD 449

WHITTED-WILLIAMS FUNERAL HOME,
GREGORY WENDELL ATKINS, OWNER and MANAGER
5500 Foothill Blvd.
Oakland, CA 94605
Funeral Establishment License No. FD 837

Respondents.

Complainant alleges:

PARTIES

1. Richard L. Wallinder, Jr. (Complainant) brings this First Amended Accusation solely in his official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs.[1]

Rucker's Mortuary

2. On or about December 11, 1968, the Cemetery and Funeral Bureau issued Funeral Establishment License Number FD 1188 to Rucker's Mortuary (Respondent Rucker's Mortuary). Joel D. Rucker, Sr. is President, Wilma R. Davis is Vice-President, Michael T. Wright is Manager, and Harold Greenberg and Robert W. Jones are Board Trustees of Respondent Rucker's Mortuary. The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2009, unless renewed.

Michael Todd Wright

3. On or about October 6, 1998, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 1440 to Michael Todd Wright (Respondent Wright). The

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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.

Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2009, unless renewed.

4. On or about August 9, 2005, the Cemetery and Funeral Bureau issued Apprentice Embalmer Registration Number AE 12820 to Respondent Wright. The Apprentice Embalmer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on August 9, 2011.

Joel D. Rucker, Sr.

5. On or about August 26, 1998, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 1370 to Joel D. Rucker, Sr. (Respondent Joel Rucker). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2009, unless renewed.

Billy Arthur Taft, Sr.

6. On or about October 14, 2005, the Cemetery and Funeral Bureau issued Apprentice Embalmer Registration Number AE 13015 to Billy Arthur Taft, Sr. (Respondent Taft). The Apprentice Embalmer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 14, 2011.

Gregory Wendell Atkins

7. On or about October 22, 1982, the Cemetery and Funeral Bureau issued Embalmer License Number EMB 7340 to Gregory Wendell Atkins (Respondent Atkins). The Embalmer License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2009, unless renewed.

8. On or about December 18, 2002, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 2285 to Gregory Wendell Atkins (Respondent Atkins). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2009, unless renewed.

Whitted-Williams Funeral Home

9. On or about May 12, 1948, the Cemetery and Funeral Bureau issued Funeral Establishment License Number FD 837 to Whitted-Williams Funeral Home (Respondent

Whitted-Williams Funeral Home). Gregory Wendell Atkins is the Individual Licensed Owner and Manager since July 6, 2007. The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2009, unless renewed.

Baker-Williams Mortuary

10. On or about December 5, 1958, the Cemetery and Funeral Bureau issued Funeral Establishment License Number FD 449 to Baker-Williams Mortuary (Respondent Baker-Williams Mortuary). Gregory Wendell Atkins is the Individual Licensed Owner and Manager since June 20, 2007. The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2009, unless renewed.

JURISDICTION

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

12. Section 7686 of the Code provides that the Bureau, after notice and hearing, may suspend or revoke licenses if the licensee has been found guilty of any acts or omissions constituting grounds for disciplinary action.

13. Section 7692 of the Code provides that the misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer constitutes a ground for disciplinary action.

14. Section 7703 of the Code provides that violation of any of the provisions of Funeral Directors and Embalmers Law (Sections 7600-7745 of the Code) or the rules and regulations adopted pursuant thereto constitutes a ground for disciplinary action.

15. Section 7668 of the Code provides that the Bureau may suspend or revoke a certificate of apprenticeship based on any of the following acts or omissions:

(a) Failure to devote full-time employment to the duties of his or her apprenticeship.

(b) Failure to make any report required by this chapter.

....

(f) Violation of any provision of this chapter or any rule or regulation of the Bureau

(h) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.

16. Section 7670 of the Code states:

"(a) The apprenticeship required by this article shall be served in a licensed funeral establishment that shall have been previously approved for apprenticeship training by the bureau. In order to qualify for approval the funeral director shall submit to the bureau an application, accompanied by the fee fixed by this chapter, showing:

. . . .

(2) That the applicant has, and will continue to have, in full-time employment, for each two apprentices employed in his or her establishment, a California embalmer who has had not less than two years' practical experience as a California licensed embalmer immediately preceding the date of the application.

. . . .

(c) Approval granted under this section shall be renewed annually upon application by the funeral director, showing continued compliance with the foregoing provisions of this section, filed with the bureau not later than January 15 of each year. An application for renewal shall be accompanied by the fee fixed by this chapter."

17. Section 7707 of the Code states: "Gross negligence, gross incompetence or unprofessional conduct in the practice of funeral directing or embalming constitutes a ground for disciplinary action."

18. Section 477 of the Code states, in part, that

"(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in

a business or profession regulated by this code."

19. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the administrative law judge to direct a 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.

REGULATORY PROVISIONS

20. California Code of Regulations, title 16, section 1204, subdivision (b), states:

"(b) The designated managing licensed funeral director of a licensed funeral establishment shall be responsible for exercising such direct supervision and control over the conduct of said funeral establishment as is necessary to ensure full compliance with the Funeral Directors and Embalmers Law, the provisions of this chapter and the applicable provisions of the Health and Safety Code. Failure of the designated managing licensed funeral director and/or the licensed funeral establishment to exercise such supervision or control, or failure of the holder of the funeral establishment license to make such designation shall constitute a ground for disciplinary action."

21. California Code of Regulations, title 16, section 1229 regarding embalming by an apprentice states:

"(a) An apprentice shall embalm or assist in embalming at least the first 25 of the 100 bodies required pursuant to Section 7643(d), Article 3, Chapter 12, Division 3 of the Business and Professions Code, **only under the direct supervision and in the presence of** his or her designated supervising embalmer.

(b) When an apprentice embalms a body out of the presence of the embalmer under whom he or she is apprenticed, the death certificate shall not be signed by such embalmer until he or she makes a personal inspection, **in the presence** of the apprentice, of the body as embalmed and passes thereon." [emphasis added]

INVESTIGATION

22. On September 25, 2007, an investigator from the Cemetery and Funeral

Bureau, John R. Gettys (Investigator Gettys), conducted a routine compliance inspection of Rucker's Mortuary. Respondent Wright informed Investigator Gettys that he and Respondent Taft are certified apprentice embalmers. Respondent Wright subsequently stated that he operates Rucker's Mortuary with a minimal staff, citing five employees which did not include a full time California licensed embalmer. The investigation revealed that Rucker's Mortuary failed to employ Respondent Atkins or any other California licensed embalmer as a full-time embalmer during the apprenticeships of Respondents Wright and Taft.

23. In the course of the investigation, it was also found that the two "Report of Apprenticeship" that Respondent Wright submitted to the Bureau were falsified in that Respondent Atkins certified under penalty of perjury as being the supervising embalmer, when he did not supervise all of the embalming work as alleged on Respondent Wright's Apprenticeship Reports.

24. The investigation also showed that the two "Report of Apprenticeship" that Respondent Taft submitted to the Bureau were also falsified in that Respondent Atkins certified under penalty of perjury as being the supervising embalmer, when he did not supervise all of the embalming work as alleged on Respondent Taft's Apprenticeship Reports.

25. On October 10, 2007, Investigator Gettys met with Respondent Atkins to discuss the Apprenticeship Reports and his employment at Rucker's Mortuary. Respondent Atkins told Investigator Gettys that the Apprenticeship Reports that were submitted to the Bureau were falsified because he did not supervise all the embalming work that was recorded in the Reports, which Respondents signed under penalty of perjury. Moreover, Respondent Atkins told Investigator Gettys that he was never a full-time employee at Rucker's Mortuary.

FIRST CAUSE FOR DISCIPLINE

(Misrepresentation and/or fraud

by Respondents Rucker's Mortuary, Rucker, Wright, and Atkins)

26. The licenses of Respondents Rucker's Mortuary, Respondent Joel Rucker, Respondent Wright, and Respondent Atkins are subject to discipline under Section 7692, in that Respondents made misrepresentations and/or committed fraud in the conduct of the business or

the profession of a funeral director or embalmer, as follows:

27. Respondents falsified the "Report of Apprenticeship" of Respondent Wright submitted to the Bureau by Respondent Rucker's Mortuary on or about January 3, 2006, for the first reporting period of August 9, 2005, through December 31, 2005, and the "Report of Apprenticeship" of Respondent Wright submitted to the Bureau by Respondent Rucker's Mortuary on or about November 19, 2006, for the second reporting period of December 31, 2005 through November 10, 2006 (together referred to herein as "Wright's Apprentice Reports"), as follows:

A. Respondent Atkins falsely certified under penalty of perjury that he "supervise[s] the apprentice embalmer named above and that he/she has performed the work stated in this report," and he initialed each embalming procedure recorded in Wright's Apprentice Reports, when, in fact, Respondent Atkins did not act as a supervising embalmer on each occasion that he reported supervising Respondent Wright.

B. Respondent Atkins falsely certified under penalty of perjury in Wright's Apprentice Reports and Taft's Apprentice Reports that he was a supervising embalmer, which requires full-time employment under section 7670(a)(2), when, in fact, he was not a full-time embalmer at Rucker's Mortuary. Investigator Gettys requested employment records from Respondent Atkins. Respondent Atkins stated to Investigator Gettys that he was never a full-time employee at Rucker's Mortuary.

C. In his capacity as Managing Funeral Director, Respondent Wright falsely certified under penalty of perjury that "the statements made by the named apprentice and supervising embalmer are true and correct and that both are in compliance with the Cemetery and Funeral Bureau laws, rules and regulations," when, in fact, the representations made regarding the supervision of his embalming were false, as set forth in subparagraph 27(a), above.

D. In his capacity as the Apprentice Embalmer, Respondent Wright falsely certified under penalty of perjury that "all statements furnished in connection with the apprentice reports are true and accurate," when, in fact, the representations made regarding the supervision of Respondent Wright's embalming were false, as set forth in subparagraph 27(a), above.

28. Respondents falsified the "Report of Apprenticeship" of Respondent Taft submitted to the Bureau by Respondent Rucker's Mortuary on or about January 3, 2006, for the first reporting period of October 14, 2005 through December 31, 2005, and the "Report of Apprenticeship" of Respondent Taft submitted to the Bureau by Respondent Rucker's Mortuary on or about November 19, 2006, for second reporting period of December 31, 2005 through November 10, 2006 (together referred to herein as "Taft's Apprentice Reports"), as follows:

A. Respondent Atkins falsely certified under penalty of perjury that he "supervise[s] the apprentice embalmer named above and that he/she has performed the work stated in this report," and initialed each embalming procedure recorded in Taft's Apprentice Reports, when, in fact, Respondent Atkins did not act as a supervising embalmer on each occasion that he reported supervising Respondent Taft.

B. Respondent Atkins falsely certified under penalty of perjury in both Wright's Apprentice Reports and Taft's Apprentice Reports that he was a supervising embalmer, which requires full-time employment under section 7670(a)(2), when, in fact, he was not a full-time embalmer at Rucker's Mortuary. Investigator Gettys requested employment records from Respondent Atkins. Respondent Atkins stated to Investigator Gettys that he was never a full-time employee at Rucker's Mortuary.

C. In his capacity as the Managing Funeral Director, Respondent Wright falsely certified under penalty of perjury that "the statements made by the named apprentice and supervising embalmer are true and correct and that both are in compliance with the Cemetery and Funeral Bureau laws, rules and regulations," when, in fact, the representations made regarding the supervision of Respondent Taft's embalming were false, as set forth in subparagraph 28(a), above.

D. In his capacity as the Apprentice Embalmer, Respondent Taft falsely certified under penalty of perjury that "all statements furnished in connection with the apprentice reports are true and accurate," when, in fact, the representations made regarding the supervision of his embalming were false, as set forth in subparagraph 27(a), above.

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SECOND CAUSE FOR DISCIPLINE

(Violation of the Funeral Directors and Embalmers Law: Misrepresentation and/or Fraud by Respondent Wright and Respondent Taft)

29. Respondent Wright's Apprentice Embalmer's Registration and Respondent Taft's Apprentice Embalmer's Registration are subject to disciplinary action under Sections 7668, subdivision (f), and 7692, in that Respondents engaged in misrepresentation and/or fraud, as follows:

A. In his capacity as the Apprentice Embalmer, Respondent Wright certified under penalty of perjury that "all statements furnished in connection with the apprentice reports are true and accurate," when, in fact, the representations made regarding the supervision of Respondent Wright's embalming were false, as set forth above in paragraph 27.

B. Respondent Taft certified under penalty of perjury that "all statements furnished in connection with the apprentice reports are true and accurate," when, in fact, the representations made regarding the supervision of his embalming were false, as set forth above in paragraph 28.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Funeral Directors and Embalmers Law re supervision of embalming by an apprentice)

30. The licenses of Respondent Rucker's Mortuary, Respondent Joel Rucker, Respondent Wright, as Manager, and Respondent Atkins are subject to disciplinary action under Section 7703, in conjunction with California Code of Regulations, Title 16, Section 1229, as follows:

A. Respondents failed to have Respondent Wright embalm or assist in embalming under the direct supervision and in the presence of a designated supervising embalmer for the first 25 of the 100 embalmed bodies as recorded in the Wright's Apprentice Reports and initialed by Respondent Atkins, which is in violation of California Code of Regulations, Title 16, Section 1229(a).

B. Respondents failed to have Respondent Taft embalm or assist in

embalming under the direct supervision and in the presence of a designated supervising embalmer for the first 25 of the 100 bodies as recorded and initialed by Respondent Atkins in Taft's Apprentice Reports, which is in violation of California Code of Regulations, Title 16, Section 1229(a).

C. Respondents failed to have Respondent Atkins conduct a personal inspection, in the presence of Respondent Wright, of each embalmed body as recorded and initialed by Respondent Atkins in Wright's Apprenticeship Reports before the death certificate was signed, in violation of California Code of Regulations, Title 16, Section 1229(b).

D. Respondents failed to have Respondent Atkins conduct a personal inspection, in the presence of Respondent Taft, of each embalmed body as recorded and initialed by Respondent Atkins in Taft's Apprenticeship Reports before the death certificate was signed, in violation of California Code of Regulations, Title 16, Section 1229(b).

FOURTH CAUSE FOR DISCIPLINE

(Violation of the Funeral Directors and Embalmers Law re embalming by an apprentice -- Respondent Wright and Respondent Taft)

31. Respondent Wright's Apprentice Embalmer's Registration and Respondent Taft's Apprentice Embalmer's Registration are subject to disciplinary action under Section 7668, subdivision (f), in conjunction with California Code of Regulations, Title 16, Section 1229, as follows:

A. Respondent Wright's Apprentice Embalmer's Registration is subject to disciplinary action for failure to work under the direct supervision and in the presence of supervising embalmer Respondent Atkins for the first 25 out of the 100 bodies that Respondent Wright embalmed or assisted in embalming as recorded and initialed by Respondent Atkins on Wright's Apprenticeship Reports, in violation of California Code of Regulations, Title 16, Section 1229(a).

B. Respondent Taft's Apprentice Embalmer's Registration is subject to disciplinary action for not being under the direct supervision and in the presence of supervising embalmer Respondent Atkins for the first 25 out of the 100 bodies that Respondent Taft

embalmed or assisted in embalming as recorded and initialed by Respondent Atkins on Taft's Apprenticeship Reports, in violation of California Code of Regulations, Title 16, Section 1229(a).

C. Respondent Wright's Apprentice Embalmer's Registration is subject to disciplinary action for not having Respondent Atkins conduct a personal inspection under Respondent Wright's presence of bodies that Respondent Wright embalmed or assisted in embalming, as set forth in Wright's Apprenticeship Reports, before the death certificates were signed, in violation of California Code of Regulations, Title 16, Section 1229(b).

D. Respondent Taft's Apprentice Embalmer's Registration is subject to disciplinary action for not having Respondent Atkins conduct a personal inspection under Respondent Wright's presence of bodies that Respondent Taft embalmed or assisted in embalming, as set forth in Taft's Apprenticeship Reports, before the death certificates were signed, in violation of California Code of Regulations, Title 16, Section 1229(b).

FIFTH CAUSE FOR DISCIPLINE

(Failure to employ a full-time embalmer)

32. The licenses of Respondents Rucker's Mortuary, Respondent Joel Rucker, and Respondent Wright, as Manager, are subject to discipline under Sections 7703 and 7670, by failing to employ Respondent Atkins or any other California licensed embalmer as a full-time embalmer to supervise apprentice embalmers Respondent Wright and Respondent Taft.

A. Respondent Atkins provided a Declaration to the Bureau dated October 10, 2007, that he was not a full-time employee at Rucker's Mortuary.

B. Respondent Atkins provided a copy of an Internal Revenue Service 2006 Form 1099-Misc., showing Rucker's Mortuary paid him $17,396.00 identified as "non-employee compensation."

C. Investigator Gettys requested employment records to establish whether Respondent Atkins was a full-time employee. Respondent Rucker's Mortuary failed to provide employment records to show that Respondent Atkins was a full-time employee.

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SIXTH CAUSE FOR DISCIPLINE

(Failure to devote full-time employment during the apprenticeship)

33. Respondent Taft's certificate of registration as apprentice embalmer is subject to disciplinary action under Section 7668, in that Respondent Taft falsely certified under penalty of perjury that he satisfied the duties of an apprenticeship, which he did not, because he failed to devote full-time employment to the duties of his apprenticeship.

SEVENTH CAUSE FOR DISCIPLINE

(Failure of Managing Funeral Director to ensure full compliance)

34. The license of Respondent Wright, as the designated licensed manager of a licensed funeral establishment, is subject to discipline under Section 7703, in conjunction with California Code of Regulations, Title 16, Section 1204(b), for failure to ensure full compliance with the Funeral Directors and Embalmers Law, in that:

A. Respondent Wright, as the Managing Funeral Director, committed misrepresentation and/or fraud when he certified under penalty of perjury that he and Respondent Taft served their apprenticeship at Rucker's Mortuary under the supervision of Respondent Atkins, which is false and a violation of Section 7692.

(1) On or about October 10, 2007, Respondent Atkins stated to Investigator Gettys that he was not the supervising embalmer for Respondents Wright and Taft.

B. Respondent Wright failed to hire Respondent Atkins as a full-time embalmer during Respondent Wright's apprenticeship period of August 9, 2005 through November 10, 2006, which is in violation of Section 7670 (a)(2).

(1) On or about October 10, 2007, Respondent Atkins acknowledged to Investigator Gettys that he was not a full-time employee at Rucker's Mortuary.

C. Respondent Wright failed to hire Respondent Atkins as a full-time embalmer during Respondent Taft's apprenticeship period of October 14, 2005 through November 10, 2006, which is in violation of Section 7670 (a)(2).

D. Respondent Wright failed to hire Respondent Taft as a full-time apprentice during his apprenticeship, which is in violation of Section 7668.

E. Respondent Wright failed to work as an apprentice embalmer under the direct supervision and in the presence of Respondent Atkins for at least the first 25 of the 100 bodies required pursuant to Section 7643(d), which is a violation of California Code of Regulations, title 16, Section 1229(a).

F. Respondent Wright failed to have Respondent Taft work as an apprentice embalmer under the direct supervision and in the presence of Respondent Atkins for at least the first 25 of the 100 bodies required pursuant to Section 7643(d), which is a violation of California Code of Regulations, title 16, Section 1229(a).

G. Respondent Wright failed to have the supervising embalmer conduct a personal inspection, in the presence of the apprentice embalmer, of each embalmed body before the death certificate is signed, which is a violation of California Code of Regulations, title 16, Section 1229(b).

H. Respondent Wright failed to have Respondent Atkins conduct a personal inspection in Respondent Taft's presence of the body as embalmed in Taft's Apprenticeship Reports, in violation of California Code of Regulations, title 16, Section 1229(b).

EIGHTH CAUSE FOR DISCIPLINE

(Unprofessional conduct)

35. The licenses of Respondents are subject to discipline under Section 7707, in that Respondents committed acts that constitute unprofessional conduct in the practice of funeral directing or embalming, as set forth in paragraphs 22 through 34, above.

DISCIPLINE CONSIDERATIONS

for Rucker's Mortuary

36. To determine the degree of discipline, if any, to be imposed on Respondent Rucker's Mortuary, Complainant alleges that on or about November 12, 1996, a Citation was issued to Rucker's Mortuary before the Cemetery and Funeral Bureau, in Case Number SN 1996 63 with a fine of $2,500 for violation of Business and Professions Code Section 7685 and California Code of Regulations, title 16, Section 1258. Fine paid on March 3, 1997.

37. Complainant alleges that on or about January 19, 2007, a Citation was issued to Rucker's Mortuary before the Cemetery and Funeral Bureau, in Case Number IC 2007 13 with no fine assessed for violation of Business and Professions Code Section 7685.1(a)(b) and California Code of Regulations, title 16, Sections 1216, 1258.1(c)(1), 1258.1(d) and 1258.1(a)(b).

38. Complainant alleges that on or about November 9, 2007, a Citation was issued to Rucker's Mortuary before the Cemetery and Funeral Bureau, in Case Number IC 2007 101 with no fine assessed for violation of Business and Professions Code Section 7685.1(a)(B) and California Code of Regulations, title 16, Section 1258(a)(b).

DISCIPLINE CONSIDERATIONS

for Michael Todd Wright

39. To determine the degree of discipline, if any, to be imposed on Respondent Wright, Complainant alleges that on or about March 6, 2002 an Accusation Case Number A1 2002 106 was filed against Respondent Wright for similar acts. Respondent Wright falsified his "Report of Apprenticeship" submitted to the Bureau on or about December 10, 1999 and on October 16, 2000 by forging the signatures of the supervising embalmer and the managing funeral director of his place of employment and apprenticeship at Rucker's Mortuary. A Stipulated Settlement and Disciplinary Order was adopted May 20, 2003 and became effective on June 19, 2003. The funeral director license FDR 1440 of Respondent Wright was revoked, stayed, and suspended for thirty days and placed on probation for three years. Certificate of Registration as an Apprentice Embalmer AE 12159 was revoked effective June 19, 2003. Probation was completed on July 17, 2006.

40. Complainant also alleges that on or about March 6, 2002, a Statement of Issues Case Number A1 2000 281 was filed against Respondent Wright for violations of the following code sections of the Business and Professions Code, sections 7708, 7643(b), 7643(d), 480(a)(2), 480(a)(3), and 480(c). On April 19, 2002, the First Amended Statement of Issues was filed and added code section 7662(b) to the list of violations. A Stipulated Settlement and

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Disciplinary Order was adopted on May 20, 2003 and became effective on June 19, 2003. The application for an Embalmer license and Examination were denied.

DISCIPLINE CONSIDERATIONS

for Baker-Williams Mortuary

41. To determine the degree of discipline, if any, to be imposed on Respondent Baker-Williams Mortuary, Complainant alleges that on or about February 8, 2008, a Citation was issued to Respondent Baker-Williams Mortuary before the Cemetery and Funeral Bureau, in Citation Number IC 2008 17 with a fine of $501.00 for violation of California Code of Regulations, Title 16, Section 1223(c). The fine was paid on February 26, 2008.

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. Revoking or suspending Funeral Director License Number FDR 1370 issued to Joel D. Rucker, Sr., President of Rucker's Mortuary.

2. Revoking or suspending Funeral Establishment License Number FD 1188, issued to Rucker's Mortuary; Michael Todd Wright, Manager of Rucker's Mortuary.

3. Revoking or suspending Funeral Director License Number FDR 1440, issued to Michael Todd Wright.

4. Revoking or suspending Apprentice Embalmer Registration Number AE 12820, issued to Michael Todd Wright.

5. Revoking or suspending Apprentice Embalmer Registration Number AE 13015, issued to Billy Arthur Taft, Sr.

6. Revoking or suspending Embalmer License Number EMB 7340, issued to Gregory Wendell Atkins.

7. Revoking or suspending Funeral Director License Number FDR 2285, issued to Gregory Wendell Atkins.

8. Revoking or suspending Funeral Establishment License Number FD 837, issued to Whitted-Williams Funeral Home; Gregory Wendell Atkins, Individual Licensed Owner

and Manager of Whitted-Williams Funeral Home.

9. Revoking or suspending Funeral Establishment License Number FD 449, issued to Baker-Williams Mortuary; Gregory Wendell Atkins, Individual Licensed Owner and Manager of Baker-Williams Mortuary.

10. Ordering Rucker's Mortuary, Michael Todd Wright, Joel D. Rucker, Sr., Billy Arthur Taft, Sr., Gregory Wendell Atkins, Whitted-Williams Funeral Home, Baker-Williams Mortuary 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,

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

DATED: 3/4/09

RICHARD L. WALLINDER, JR.
Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

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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:	Case No. A1 2007 436
RUCKER'S MORTUARY, JOEL D. RUCKER, SR., PRESIDENT 12460 Van Nuys Blvd. Pacoima, CA 91331 Funeral Director License No. FDR 1370, RUCKER'S MORTUARY, MICHAEL TODD WRIGHT, MANAGER 12460 Van Nuys Blvd. Pacoima, CA 91331 Funeral Establishment License No. FD 1188, MICHAEL TODD WRIGHT Rucker's Mortuary 12460 Van Nuys Blvd. Pacoima, CA 91342 Funeral Director License No. FDR 1440 Apprentice Embalmer Registration No. AE 12820, BILLY ARTHUR TAFT, SR. Rucker's Mortuary 12460 Van Nuys Blvd. Pacoima, CA 91331 Apprentice Embalmer Registration No. AE 13015, WHITTED-WILLIAMS FUNERAL HOME, GREGORY WENDELL ATKINS, OWNER and MANAGER 5500 Foothill Blvd. Oakland, CA 94605 Funeral Establishment License No. FD 837	**A C C U S A T I O N**

BAKER-WILLIAMS MORTUARY,
GREGORY WENDELL ATKINS, OWNER and MANAGER
980 8th Street
Oakland, CA 94607
Funeral Establishment License No. FD 449

GREGORY WENDELL ATKINS
5500 Foothill Blvd.
Oakland, CA 94605
Embalmer License No. EMB 7340
Funeral Director License No. FDR 2285

Respondents.

Complainant alleges:

PARTIES

1. Richard L. Wallinder, Jr. (Complainant) brings this Accusation solely in his official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs.[1]

Rucker's Mortuary

2. On or about December 11, 1968, the Cemetery and Funeral Bureau issued Funeral Establishment License Number FD 1188 to Rucker's Mortuary (Respondent Rucker's Mortuary). Joel D. Rucker, Sr., is President. Wilma R. Davis, is Vice-President. Michael T. Wright is Manager. And Harold Greenberg and Robert W. Jones are Board Trustees. The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2008, unless renewed.

Michael Todd Wright

3. On or about October 6, 1998, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 1440 to Michael Todd Wright (Respondent Wright). The Funeral Director License was in full force and effect at all times relevant to the charges

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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.

brought herein and will expire on October 31, 2008, unless renewed.

4. On or about August 9, 2005, the Cemetery and Funeral Bureau issued Apprentice Embalmer Registration Number AE 12820 to Michael Todd Wright (Respondent Wright). The Apprentice Embalmer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on August 9, 2011.

Joel D. Rucker, Sr.

5. On or about August 26, 1998, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 1370 to Joel D. Rucker, Sr. (Respondent Joel Rucker). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2008; unless renewed.

Billy Arthur Taft, Sr.

6. On or about October 14, 2005, the Cemetery and Funeral Bureau issued Apprentice Embalmer Registration Number AE 13015 to Billy Arthur Taft, Sr. (Respondent Taft). The Apprentice Embalmer Registration was in full force and effect at all times relevant to the charges brought herein and will expire on October 14, 2011.

Whitted-Williams Funeral Home

7. On or about May 12, 1948, the Cemetery and Funeral Bureau issued Funeral Establishment License Number FD 837 to Whitted-Williams Funeral Home (Respondent Whitted-Williams Funeral Home). Gregory Wendell Atkins is the Individual Licensed Owner and Manager since July 6, 2007. The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2009.

Baker-Williams Mortuary

8. On or about December 5, 1958, the Cemetery and Funeral Bureau issued Funeral Establishment License Number FD 449 to Baker-Williams Mortuary (Respondent Baker-Williams Mortuary). Gregory Wendell Atkins is the Individual Licensed Owner and Manager since June 20, 2007. The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2008, unless renewed.

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Gregory Wendell Atkins

9. On or about October 22, 1982, the Cemetery and Funeral Bureau issued Embalmer License Number EMB 7340 to Gregory Wendell Atkins (Respondent Atkins). The Embalmer License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2008, unless renewed.

10. On or about December 18, 2002, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 2285 to Gregory Wendell Atkins (Respondent Atkins). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2008, unless renewed.

JURISDICTION

11. 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.

12. Section 7692 of the Code provides that the misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer constitutes a ground for disciplinary action.

13. Section 7668 of the Code provides that the Bureau may suspend or revoke a certificate of apprenticeship based on any of the following acts or omissions:

(a) Failure to devote full-time employment to the duties of his or her apprenticeship.

(b) Failure to make any report required by this chapter.

....

(f) Violation of any provision of this chapter or any rule or regulation of the Bureau

(h) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.

14. Section 7670 of the Code states:

"(a) The apprenticeship required by this article shall be served in a licensed funeral establishment that shall have been previously approved for apprenticeship training by the bureau. In order to qualify for approval the funeral director shall submit to the bureau an application, accompanied by the fee fixed by this chapter, showing:

(1) That not less than 50 human remains per apprentice employed have been embalmed in the establishment during the 12 months immediately preceding the date of the application.

(2) That the applicant has, and will continue to have, in full-time employment, for each two apprentices employed in his or her establishment, a California embalmer who has had not less than two years' practical experience as a California licensed embalmer immediately preceding the date of the application.

(3) That the licensed funeral establishment of that applicant meets the requirements of law as to equipment, cleanliness and sanitation as determined by an inspection report filed with the bureau.

(b) Licensed funeral establishments under common ownership within close geographical proximity of each other may request any of the following from the bureau:

(1) To be treated in aggregate for the purpose of meeting the requirements of paragraph (1) of subdivision (a).

(2) To designate one additional supervising embalmer per registered apprentice.

(3) To allow a registered apprentice to serve in any or all of the licensed funeral establishments requested and approved pursuant to this section.

(c) Approval granted under this section shall be renewed annually upon application by the funeral director, showing continued compliance with the foregoing provisions of this section, filed with the bureau not later than January 15 of each year. An application for renewal shall be accompanied by the fee fixed by this chapter."

15. Section 7707 of the Code states: "Gross negligence, gross incompetence or unprofessional conduct in the practice of funeral directing or embalming constitutes a ground

for disciplinary action."

16. Section 7705 of the Code provides that fraud or misrepresentation in obtaining a license constitutes a ground for disciplinary action.

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1204, subdivision (b), states:

(b) The designated managing licensed funeral director of a licensed funeral establishment shall be responsible for exercising such direct supervision and control over the conduct of said funeral establishment as is necessary to ensure full compliance with the Funeral Directors and Embalmers Law, the provisions of this chapter and the applicable provisions of the Health and Safety Code. Failure of the designated managing licensed funeral director and/or the licensed funeral establishment to exercise such supervision or control, or failure of the holder of the funeral establishment license to make such designation shall constitute a ground for disciplinary action.

INVESTIGATION

18. In the course of a compliance inspection of this funeral establishment, it was observed that although the licensee employed two apprentice embalmers, it failed to employ a full time California licensed embalmer.

19. On September 25, 2007, a field representative from the Cemetery and Funeral Bureau, John R. Gettys, conducted a routine compliance inspection of Rucker's Mortuary. Mr. Gettys questioned Mr. Michael Todd Wright whether Rucker's Mortuary employs an apprentice embalmer. Mr. Wright stated that Rucker's Mortuary has a current Approval to Train Apprentice Embalmers and acknowledged that both he and employee Mr. Billy Taft (Respondent Taft) are both certified apprentices. Mr. Wright subsequently commented that he operates Rucker's Mortuary with a minimal staff, citing himself, Respondent Taft, Leon Pickering, a part-time attendance, and Vanessa Velasquez, a part-time receptionist, as the complement of employees.

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FIRST CAUSE FOR DISCIPLINE

(Fraud in the conduct of the business)

20. Respondent Rucker's Mortuary violated Business and Professions Code Section 7692, fraud in the conduct of the business or the profession of a funeral director or embalmer by failing to employ a full time California licensed embalmer to supervise two apprentice embalmers.

a. In the course of an inspection, Respondent Wright, the designated manager, acknowledged that he and Respondent Taft are apprentice embalmers at Rucker's Mortuary.

SECOND CAUSE FOR DISCIPLINE

(Failure to have full-time employment for each two apprentices)

21. The licenses of Respondent Wright, Respondent Rucker, Respondent Taft, and Respondent Atkins are subject to disciplinary action for unprofessional conduct pursuant to Business & Professions Code Section 7670. Pursuant to Section 7670, an applicant has and will continue to have, in full-time employment for each two apprentices...a (licensed) California embalmer:

a. Respondent Wright failed to serve his apprenticeship at Rucker's Mortuary under the supervision of a full time California licensed embalmer.

b. Respondent Wright acknowledged that he is employed at Rucker's Mortuary as the funeral establishment manager of record and an apprentice embalmer.

c. From approximately June 18, 2004 to December 20, 2006, Respondent Atkins was the sole proprietor of Atkins Funeral Service, a funeral establishment operated first from his brother's residence and then his own. From approximately July 1, 2005 to December 20, 2006 Atkins Funeral Service was approved to share the preparation room and refrigerated storage at Rucker's Mortuary.

d. Respondent Atkins acknowledged that his role as a supervising embalmer at Rucker's Mortuary was a ruse perpetrated by and for Respondent Wright for the

purpose of obtaining Respondent Wright's embalmer license without employing a full-time California licensed embalmer.

e. Respondent Rucker's Mortuary failed to employ Respondent Atkins as a full time California licensed embalmer to supervise apprentice embalmers Respondent Wright and Respondent Taft.

f. Regarding Respondent Atkins' 2005 employment status with Rucker's Mortuary, he was unable to locate any tax records and stated, "I guess I didn't work for Rucker's Mortuary in 2005."

g. Respondent Taft failed to serve his apprenticeship at Rucker's Mortuary under the supervision of a full time California licensed embalmer

h. Respondent Taft is employed as an apprentice embalmer at Rucker's Mortuary.

THIRD CAUSE FOR DISCIPLINE

22. Respondent Wright, as the designated licensed manager of a licensed funeral establishment violated CCR Section 1204(b) for failure to ensure full compliance with the Funeral Directors and Embalmers Law.

a. Respondent Wright failed to employ at Rucker's Mortuary a full time California licensed embalmer to supervise two apprentice embalmers.

b. Respondent Wright acknowledged that he is employed not only as the funeral establishment manager of record but as an apprentice embalmer at Rucker's Mortuary.

c. Respondent Wright acknowledged that Respondent Taft is employed as an apprentice embalmer at Rucker's Mortuary.

DISCIPLINE CONSIDERATIONS

for Rucker's Mortuary

23. To determine the degree of discipline, if any, to be imposed on Respondent Rucker's Mortuary, Complainant alleges that on or about November 12, 1996, a Citation was issued to Rucker's Mortuary before the Cemetery and Funeral Bureau, in Case

Number SN 1996 63 with a fine of $2,500 for violation of Business and Professions Code Section 7685 and California Code of Regulations Section 1258. Fine paid on March 3, 1997.

24. Complainant alleges that on or about January 19, 2007, a Citation was issued to Rucker's Mortuary before the Cemetery and Funeral Bureau, in Case Number IC 2007 13 with no fine assessed for violation of Business and Professions Code Section 7685.1(a)(b) and California Code of Regulations Sections 1216, 1258.1(c)(1), 1258.1(d) and 1258.1(a)(b).

25. Complainant alleges that on or about November 9, 2007, a Citation was issued to Rucker's Mortuary before the Cemetery and Funeral Bureau, in Case Number IC 2007 101 with no fine assessed for violation of Business and Professions Code Section 7685.1(a)(B) and California code of Regulations Section 1258(a)(b).

DISCIPLINE CONSIDERATIONS

for Michael Todd Wright

26. To determine the degree of discipline, if any, to be imposed on Respondent Michael Todd Wright as the Apprentice Embalmer, Complainant alleges that on or about March 6, 2002 an Accusation Case Number A1 2002 106 was filed against Respondent Wright for violations of the following Code Section of the Business and Professions Code, which are Sections 7686, 7707, 7692, 7692.5, 7705, 7707, 7668, 7662(b), 7643, 7660, and 7665. And under the California Code of Regulations Section 1229(a). A Stipulated Settlement and Disciplinary Order was adopted May 20, 2003 and became effective on June 19, 2003. The funeral director license FDR 1440 of Respondent Wright was revoked, stayed, and suspended for thirty days and placed on probation for three years. Certificate of Registration as an Apprentice Embalmer AE 12159 was revoked effective June 19, 2003. Probation was completed on July 17, 2006.

27. Complainant also alleges that on or about March 6, 2002, a Statement of Issues Case Number A1 2000 281 was filed against Respondent Wright for violations of the following code sections of the Business and Professions Code, sections 7708, 7643(b), 7643(d), 480(a)(2), 480(a)(3), and 480(c). On April 19, 2002, the First Amended Statement of Issues was filed and added code section 7662(b) to the list of violations. A Stipulated Settlement and

Disciplinary Order was adopted on May 20, 2003 and became effective on June 19, 2003. The application for an Embalmer license and Examination were denied.

DISCIPLINE CONSIDERATIONS

for Baker-Williams Mortuary

28. To determine the degree of discipline, if any, to be imposed on Respondent Baker-Williams Mortuary, Complainant alleges that on or about February 8, 2008, a Citation was issued to Respondent Baker-Williams Mortuary before the Cemetery and Funeral Bureau, in Citation Number IC 2008 17 with a fine of $501.00 for violation of California Code of Regulations Section 1223(c). Fine paid on February 26, 2008.

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. Revoking or suspending Funeral Director License Number FDR 1370 issued to Joel D. Rucker, Sr., President of Rucker's Mortuary.

2. Revoking or suspending Funeral Establishment License Number FD 1188, issued to Rucker's Mortuary; Michael Todd Wright, Manager of Rucker's Mortuary.

3. Revoking or suspending Funeral Director License Number FDR 1440, issued to Michael Todd Wright.

4. Revoking or suspending Apprentice Embalmer Registration Number AE 12820, issued to Michael Todd Wright.

5. Revoking or suspending Apprentice Embalmer Registration Number AE 13015, issued to Billy Arthur Taft, Sr.

6. Revoking or suspending Funeral Establishment License Number FD 837, issued to Whitted-Williams Funeral Home; Gregory Wendell Atkins, Individual Licensed Owner and Manager of Whitted-Williams Funeral Home.

7. Revoking or suspending Funeral Establishment License Number FD 449, issued to Baker-Williams Mortuary; Gregory Wendell Atkins, Individual Licensed Owner and Manager of Baker-Williams Mortuary.

8. Revoking or suspending Embalmer License Number EMB 7340, issued to Gregory Wendell Atkins.

9. Revoking or suspending Funeral Director License Number FDR 2285, issued to Gregory Wendell Atkins.

10. Ordering Rucker's Mortuary, Michael Todd Wright, Joel D. Rucker, Sr., Billy Arthur Taft, Sr., Whitted-Williams Funeral Home, Baker-Williams Mortuary, and Gregory Wendell Atkins 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;

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

DATED: 8/14/08

RICHARD L. WALLINDER, JR.
Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant