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

10 In the Matter of the Accusation Against:

Case No. AI 2011 480

11 **JOHN MILTON JACKSON**
12 1150 Fourth Street
13 Taft, CA 93268

DEFAULT DECISION AND ORDER

14 Apprentice Embalmer Certificate of
15 Registration No. AE 13103

[Gov. Code, §11520]

16 Respondent.

17 FINDINGS OF FACT

18 1. On or about June 21, 2012, Complainant Lisa M. Moore, in her official capacity as
19 the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs^{1/}, filed
20 Accusation No. AI 2011 480 against John Milton Jackson (Respondent) before the Director of
21 Consumer Affairs. (Accusation attached as **Exhibit A.**)

22 2. On or about September 19, 2006, the Cemetery and Funeral Bureau (Bureau) issued
23 Apprentice Embalmer Certificate of Registration No. AE 13103 to Respondent. The Apprentice
24 Embalmer Certificate of Registration was in full force and effect at all times relevant to the
25 charges brought in Accusation No. AI 2011 480 and expired on September 19, 2012.

26 ¹ Effective January 1, 1996, the Department of Consumer Affairs succeeded to, and
27 was vested with, all the duties, powers, purpose, responsibilities and jurisdiction of the
28 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.

1 3. On or about July 12, 2012, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. AI 2011 480, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to California Code of Regulations,
5 title 16, section 1203, is required to be reported and maintained with the Bureau. Respondent's
6 address of record was and is: 1150 Fourth Street, Taft, CA 93268.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. On or about July 20, 2012, the U.S. Postal Service returned the "domestic return
11 receipt" indicating that the package containing the Accusation and service documents had been
12 delivered to and received by a resident of the address of record – who signed for the package.
13 Though the receipt was not dated, postal service tracking records indicate that the package was
14 delivered on July 16, 2012. Additionally, the package sent by first class mail was not returned by
15 the Postal Service, and presumably received by the addressee.

16 6. Government Code section 11506 states, in pertinent part:

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

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. AI
22 2011 480.

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

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

27 9. Pursuant to its authority under Government Code section 11520, the Director finds
28 Respondent is in default. The Director will take action without further hearing and, based on the

1 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
2 taking official notice of all the investigatory reports, exhibits and statements contained therein on
3 file at the Director's offices regarding the allegations contained in Accusation No. AI 2011 480,
4 finds that the charges and allegations in Accusation No. AI 2011 480, are separately and
5 severally, found to be true and correct by clear and convincing evidence.

6 10. Taking official notice of its own internal records, pursuant to Business and
7 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
8 and Enforcement is \$ 3,122.50 as of August 27, 2012.

9 DETERMINATION OF ISSUES

10 1. Based on the foregoing findings of fact, Respondent John Milton Jackson has
11 subjected his Apprentice Embalmer Certificate of Registration No. AE 13103 to discipline.

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

13 3. The Director of Consumer Affairs is authorized to revoke Respondent's Apprentice
14 Embalmer Certificate of Registration based upon the following violations alleged in the
15 Accusation which are supported by the evidence contained in the Default Decision Evidence
16 Packet in this case:

17 a. Respondent is subject to disciplinary action under Business and Professions code
18 sections 490 and 7691, in conjunction with California Code of Regulations, title 16, section 1252,
19 in that on or about June 1, 2011, Respondent was convicted of a crime substantially related to the
20 qualifications, functions or duties of a licensed embalmer by reason of the following facts:

21 (1) On or about June 1, 2011, after pleading nolo contendere, Respondent was
22 convicted of one felony count of violating Penal Code section 503 [embezzlement] in the
23 criminal proceeding entitled *People of the State of California v. John Milton Jackson*
24 *a.k.a. Jackson Milton John* (Super. Ct. Kern County, 2010, No. BF132959A). The Court
25 sentenced Respondent to one (1) day in jail, placed him on five (5) years probation,
26 ordered him to complete 300 hours community service, ordered him to not maintain a
27 checking account (or have any checks in his possessions except payroll or business checks
28 payable to him) and ordered him to pay \$93,525.43 in restitution to West Side Memorial

1 Services (a mortuary) and/or its owners at the rate of \$750 per month with 10% interest,
2 until paid.

3 (2) The circumstances underlying the conviction are that between approximately
4 June 1, 2008 and May 15, 2009, while employed in a position of trust at West Side
5 Memorial Services, a family- owned mortuary in Kern County, Respondent engaged in an
6 elaborate theft scheme by which he obtained profits exceeding \$75,000. 00.

7 b. The Bureau expressly finds that the criminal conviction obtained by Respondent in
8 Kern County Superior Court on or about June 1, 2011 for violation of Penal Code section 503
9 was, in fact, substantially related to the qualifications, functions or duties of a licensed embalmer
10 in that to a substantial degree, the conviction evidences his present and/or potential unfitness to
11 perform the functions authorized by his license in a manner consistent with the public health,
12 safety, or welfare.

13 ORDER

14 IT IS ORDERED that Apprentice Embalmer Certificate of Registration No. AE 13103,
15 heretofore issued to Respondent John Milton Jackson, IS REVOKED.

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

20 This Decision shall become effective on Dec. 18, 2012.

21 It is so ORDERED NOV 19 2012

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23 
24 DOREATHEA JOHNSON
25 Deputy Director, Legal Affairs
26 Department of Consumer Affairs

25 LA2012602545/51154203.DOC
26 Attachment:
27 **Exhibit A: Accusation**

Exhibit A

Accusation

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2 GREGORY J. SALUTE
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3 SUSAN MELTON WILSON
Deputy Attorney General
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7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 **JOHN MILTON JACKSON**
1150 Fourth Street
13 Taft, CA 93268
14 Apprentice Embalmer License No. AE 13103
15 Respondent.

Case No. A1 2011 480

A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about September 19, 2006, the Cemetery and Funeral Bureau issued Apprentice
23 Embalmer License No. AE 13103 to John Milton Jackson (Respondent). The Apprentice
24

25 _____
26 ¹ Effective January 1, 1996, the Department of Consumer Affairs succeeded to, and was
27 vested with, all the duties, powers, purpose, responsibilities and jurisdiction of the Cemetery
28 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.

1 Embalmer License was in full force and effect at all times relevant to the charges brought herein
2 and will expire on September 19, 2012.

3 **JURISDICTION**

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

7 **STATUTORY PROVISIONS**

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

12 5. Section 490 states, in pertinent part:

13 "(a) In addition to any other action that a board is permitted to take against a licensee, a
14 board may suspend or revoke a license on the ground that the licensee has been convicted of a
15 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
16 or profession for which the license was issued.

17 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
18 discipline a licensee for conviction of a crime that is independent of the authority granted under
19 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
20 of the business or profession for which the licensee's license was issued.

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

27 6. Section 7686 provides that the bureau may suspend or revoke licenses, after proper
28 notice and hearing to the licensee, if the licensee has been found guilty by the bureau of any of

1 the acts or omissions constituting grounds for disciplinary action. The proceedings under this
2 article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the
3 Government Code, 1 and the bureau shall have all the powers granted therein.

4 7. Section 7691 states:

5 “Conviction of a crime substantially related to the qualifications, functions and duties of the
6 license holder in question constitutes a ground for disciplinary action. The record of conviction,
7 or a certified copy thereof, shall be conclusive evidence of such conviction.”

8 REGULATORY PROVISION

9 8. California Code of Regulations, title 16, section 1252 states:

10 “For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
11 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
12 considered to be substantially related to the qualifications, functions or duties of a licensed
13 funeral establishment, licensed funeral director, or licensed embalmer if to a substantial degree it
14 evidences present or potential unfitness of a licensed funeral establishment, licensed funeral
15 director, or licensed embalmer to perform the functions authorized by his license in a manner
16 consistent with the public health, safety, or welfare.” Such crimes or acts shall include but not be
17 limited to those involving the following:

18 “(a) Conviction of a crime involving fiscal dishonesty.”

19 “(b) Any violation of the provisions of Chapter 12, Division 3 of the Business and
20 Professions Code.”

21 COST RECOVERY

22 9. Section 125.3 provides that the [Bureau] may request the administrative law judge to
23 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
24 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

25 CAUSE FOR DISCIPLINE

26 (Conviction of a Substantially Related Crime)

27 10. Respondent is subject to disciplinary action under sections 490 and 7691, in
28 conjunction with California Code of Regulations, title 16, section 1252, in that on or about

1 June 1, 2011, Respondent was convicted of a crime substantially related to the qualifications,
2 functions or duties of a licensed embalmer which to a substantial degree evidences his present or
3 potential unfitness to perform the functions authorized by his license in a manner consistent with
4 the public health, safety, or welfare, as follows:

5 **FELONY EMBEZZLEMENT (2011)**

6 a. On or about June 1, 2011, after pleading nolo contendere, Respondent was convicted
7 of one felony count of violating Penal Code section 503 [embezzlement] in the criminal
8 proceeding entitled *People of the State of California v. John Milton Jackson .a.k.a. Jackson*
9 *Milton John* (Super. Ct. Kern County, 2010, No. BF132959A). The Court sentenced Respondent
10 to one (1) day in jail, placed him on five (5) years probation, ordered him to complete 300 hours
11 community service, ordered him to not maintain a checking account (or have any checks in his
12 possessions except payroll or business checks payable to him) and ordered him to pay restitution
13 in the sum of \$93,525.43 to West Side Memorial Services (a mortuary) and/or its owners at the
14 rate of \$750 per month with 10% interest, until paid. On or about March 23, 2012, the Court
15 transferred Respondent's probation supervision to Ventura County Superior Court.

16 b. The circumstances underlying the conviction are that between approximately June 1,
17 2008 and May 15, 2009, while employed in a position of trust at West Side Memorial Services, a
18 family- owned mortuary in Kern County, Respondent engaged in an elaborate theft scheme by
19 which he obtained profits exceeding \$75,000. 00. Entrusted with managing the mortuary
20 during the extended absence (due to illness) of its owners, Respondent used access to mortuary
21 records to prepare and file fraudulent death benefits claims with an insurance company – for
22 policyholders who had *not* actually died. Respondent used funds thus acquired to cover funeral
23 costs of non-insured mortuary clients - then diverted and pocketed cash paid by families of
24 non-insured mortuary clients. When Respondent's scheme was discovered, he admitted his
25 misconduct – which included filing fraudulent insurance claims, and forging the signature of
26 the mortuary owner to negotiate checks from the insurance company.

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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 issue a decision:

1. Revoking or suspending Apprentice Embalmer License No. AE 13103, issued to John Milton Jackson;
2. Ordering John Milton Jackson to pay the Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: June 21, 2012

Lisa M. Moore

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

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