

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KAREN R. DENVIR
Deputy Attorney General
4 State Bar No. 197268
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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10 **BEFORE THE DIRECTOR OF THE**
DEPARTMENT OF CONSUMER AFFAIRS
11 **FOR THE CEMETERY AND FUNERAL BUREAU**
STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against:

Case No. A1 2005 320

14 **SAMUEL LEE BROWN**
6915 LEWISTON WAY, APT. 23
15 SACRAMENTO, CA 95828

DEFAULT DECISION AND ORDER

16 FUNERAL DIRECTOR LICENSE NO. FDR 1093

[Gov. Code, §11520]

17 CERTIFICATE OF REGISTRATION AS APPRENTICE
18 EMBALMER NO. AE 13113

19 Respondent.
20

21 FINDINGS OF FACT

22 1. On or about September 23, 2009, Complainant Richard L. Wallinder, in his official
23 capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer
24 Affairs^{1/}, filed Accusation No. A1 2005 320 against Samuel Lee Brown (Respondent) before the
25 Director of the Department of Consumer Affairs.

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
(continued...)

1 2. On or about September 25, 1997, the Cemetery and Funeral Bureau (Bureau) issued
2 Funeral Director License No. FDR 1093 to Respondent. The Funeral Director License expired on
3 September 30, 2007, and has not been renewed.

4 3. On or about November 15, 2006, the Cemetery and Funeral Bureau issued Certificate
5 of Registration as an Apprentice Embalmer No. AE 13113 to Respondent. The Certificate of
6 Registration as an Apprentice Embalmer was in full force and effect at all times relevant to the
7 charges brought herein and will expire on November 15, 2012.

8 4. On or about September 23, 2009, Christina Pek, an employee of the Department of
9 Justice, served by Certified and First Class Mail a copy of the Accusation No. A1 2005 320,
10 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
11 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Bureau, which
12 was and is: 1205 22nd Street, #102, Marysville, CA, 95901.

13 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

14 5. Service of the Accusation was effective as a matter of law under the provisions of
15 Government Code section 11505, subdivision (c).

16 6. On or about October 15, 2009, the aforementioned documents were returned by the
17 U.S. Postal Service marked "Forward Time Exp Rtn to Send" and listing a new address for
18 Respondent which is 6915 Lewiston Way, Apt. 23, Sacramento, CA 95828-2823. On or about
19 October 20, 2009, Christina Pek, an employee of the Department of Justice, served by Certified
20 and First Class Mail a copy of the Accusation No. A1 2005 320, Statement to Respondent, Notice
21 of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and
22 11507.7 to Respondent at the Sacramento address referred to above.

23 7. Business and Professions Code section 118 states, in pertinent part:

24 (b) The suspension, expiration, or forfeiture by operation of law of a license
25 issued by a board in the department, or its suspension, forfeiture, or cancellation by
26 order of the board or by order of a court of law, or its surrender without the written
27 consent of the board, shall not, during any period in which it may be renewed,

28 _____
29 (...continued)
30 agency is designated as the Cemetery and Funeral Bureau.

1 restored, reissued, or reinstated, deprive the board of its authority to institute or
2 continue a disciplinary proceeding against the licensee upon any ground provided by
3 law or to enter an order suspending or revoking the license or otherwise taking
4 disciplinary action against the license on any such ground.

5 8. Government Code section 11506 states, in pertinent part:

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

11 9. Respondent failed to file a Notice of Defense within 15 days after service upon him
12 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. A1
13 2005 320.

14 10. California Government Code section 11520 states, in pertinent part:

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

19 11. Pursuant to its authority under Government Code section 11520, the Director finds
20 Respondent is in default. The Director will take action without further hearing and, based on the
21 evidence on file herein, finds that the allegations in Accusation No. A1 2005 320 are true.

22 12. The total cost for investigation and enforcement in connection with the Accusation
23 are \$1,020.00 as of December 16, 2009.

24 DETERMINATION OF ISSUES

25 1. Based on the foregoing findings of fact, Respondent Samuel Lee Brown has subjected
26 his Funeral Director License No. FDR 1093 and Certificate of Registration as Apprentice
27 Embalmer No. AE 13113 to discipline.

28 2. A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

