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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 2012 381

JENNIFER ROBIN HOWERTON

P.O. Box 362
Grass Valley, CA 95945

DEFAULT DECISION AND ORDER

Funeral Director License No. FDR 3234
Certificate of Registration as an Apprentice
Embalmer No. AE 13317

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about February 15, 2013, Complainant Lisa Moore, in her official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs^{1/}, filed

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.

1 Accusation No. A1 2012 381 against Jennifer Robin Howerton (Respondent) before the Director
2 of Consumer Affairs. (Accusation attached as Exhibit A.)

3 2. On or about April 21, 2010, the Cemetery and Funeral Bureau (Bureau) issued
4 Funeral Director License No. FDR 3234 to Respondent. The Funeral Director License expired on
5 April 30, 2012, and has not been renewed. Pursuant to Business and Professions Code section
6 118(b) the expiration of the license does not deprive the Bureau of authority to institute or
7 continue this disciplinary proceeding.

8 3. On or about March 17, 2010, the Cemetery and Funeral Bureau issued Certificate of
9 Registration as an Apprentice Embalmer No. AE 13317 to Respondent. The Certificate of
10 Registration as an Apprentice Embalmer was in full force and effect at all times relevant to the
11 charges brought in Accusation No. A1 2012 381 and will expire on March 17, 2016, unless
12 renewed.

13 4. On or about February 27, 2013, Respondent was served by Certified and First Class
14 Mail copies of the Accusation No. A1 2012 381, Statement to Respondent, Notice of Defense,
15 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
16 and 11507.7) at Respondent's address of record which, pursuant to California Code of
17 Regulations, title 16, section 1203, is required to be reported and maintained with the Bureau.
18 Respondent's address of record was and is:

19 P.O. Box 362
20 Grass Valley, CA 95945.

21 5. Service of the Accusation was effective as a matter of law under the provisions of
22 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
23 124.

24 6. On or about March 19, 2013, the aforementioned documents were returned by the
25 U.S. Postal Service marked "Undeliverable as Addressed, No Forwarding Order on File."

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1 7. Government Code section 11506 states, in pertinent part:

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

7 8. Respondent failed to file a Notice of Defense within 15 days after service upon her of
8 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No.
9 A1 2012 381.

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

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

15 10. Pursuant to its authority under Government Code section 11520, the Director finds
16 Respondent is in default. The Director will take action without further hearing and, based on the
17 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
18 taking official notice of all the investigatory reports, exhibits and statements contained therein on
19 file at the Director's offices regarding the allegations contained in Accusation No. A1 2012 381,
20 finds that the charges and allegations in Accusation No. A1 2012 381, are found to be true and
21 correct by clear and convincing evidence.

22 11. Taking official notice of its own internal records, pursuant to Business and
23 Professions Code section 125.3, it is hereby determined that the reasonable cost for Investigation
24 and Enforcement is \$425 as of April 30, 2013.

25 **DETERMINATION OF ISSUES**

26 1. Based on the foregoing findings of fact, Respondent Jennifer Robin Howerton has
27 subjected her Funeral Director License No. FDR 3234 and Certificate of Registration as an
28 Apprentice Embalmer No. AE 13317 to discipline.

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

3. The Director of Consumer Affairs is authorized to revoke Respondent's Funeral
Director License and Certificate of Registration as an Apprentice Embalmer based upon the

1 following violations alleged in the Accusation which are supported by the evidence contained in
2 the Default Decision Evidence Packet in this case:

3 a. Respondent violated Business and Professions Code sections 7691 and 7668,
4 subdivision (i), in that Respondent has been convicted of a substantially related crime as follows:

5 A. On September 11, 2012, in Nevada County Superior Court in the case entitled
6 *People vs. Jennifer Robin Howerton*, Case SF11-325, Respondent was convicted of violating
7 Penal Code section 487(a), (grand theft) a felony. The circumstances of the crime are that
8 Respondent stole approximately \$17,000 from her employer, Hooper & Weaver Mortuary,
9 located in Nevada City, California.

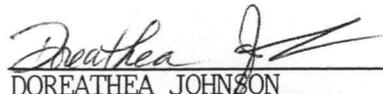
10 **ORDER**

11 IT IS SO ORDERED that Funeral Director License No. FDR 3234 and Certificate of
12 Registration as an Apprentice Embalmer No. AE 13317, heretofore issued to Respondent Jennifer
13 Robin Howerton, are revoked.

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

18 This Decision shall become effective on June 15, 2013.

19 It is so ORDERED MAY 16 2013

20
21 
22 DOREATHEA JOHNSON
23 Deputy Director, Legal Affairs
24 Department of Consumer Affairs

25 11082019.DOC
26 DOJ Matter ID:SA2012108357

27 Attachment:
28 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JANICE K. LACHMAN
Supervising Deputy Attorney General
4 State Bar No. 186131
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5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-7384
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:
13 **JENNIFER ROBIN HOWERTON**
14 **P.O. Box 362**
Grass Valley, CA 95945
15 **Funeral Director License No. FDR 3234**
Certificate of Registration as an Apprentice
16 **Embalmer No. AE 13317**
17 Respondent.

Case No. A1 2012 381

A C C U S A T I O N

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 April 21, 2010, the Cemetery and Funeral Bureau issued Funeral
23 Director License Number FDR 3234 to Jennifer Robin Howerton (Respondent). The Funeral
24 Director License expired on April 30, 2012, and has not been renewed.

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 jurisdiction to proceed with a disciplinary action during the period within which the license may
2 be renewed, restored, reissued or reinstated.

3 9. Section 125.3, subdivision (a), states, in pertinent part: "Except as otherwise provided
4 by law, in any order issued in resolution of a disciplinary proceeding before any board within the
5 department . . . upon request of the entity bringing the proceedings may request the
6 administrative law judge may direct a licentiate found to have committed a violation or violations
7 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case."

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Substantially Related Conviction)**

11 10. Respondent's license and certificate of registration are subject to disciplinary action
12 under sections 7691 and 7668, subdivision (i), respectively, in that Respondent has been
13 convicted of a substantially related crime as follows:

14 A. On September 11, 2012, in Nevada County Superior Court in the case entitled
15 *People vs. Jennifer Robin Howerton*, Case SF11-325, Respondent was convicted of violating
16 Penal Code section 487(a), (grand theft) a felony. The circumstances of the crime are that
17 Respondent stole approximately \$17,000 from her employer, Hooper & Weaver Mortuary,
18 located in Nevada City, California.

19 **PRAYER**

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

22 1. Revoking or suspending Funeral Director License Number FDR 3234, issued to
23 Jennifer Robin Howerton.;

24 2. Revoking or suspending Certificate of Registration as an Apprentice Embalmer
25 Number AE 13317, issued to Jennifer Robin Howerton;

26 3. Ordering Jennifer Robin Howerton to pay the Cemetery and Funeral Bureau the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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

DATED: February 15, 2013

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

SA2012108357
accusation.rtf