KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General
LESLIE A. BURGERMYER
Deputy Attorney General
State Bar No. 117576
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5337
Facsimile: (916) 327-8643
Attorneys for Complainant

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

In the Matter of the Accusation Against: **THOMPSON MEMORIAL CHAPEL** 2102 E. Lafayette Street Stockton, CA 95205 A Corporation: Thanos Enterprises, Inc. President: Reginald G. Thompson Vice President: R.G. Thompson Secretary/Treasurer: Robert G. Thompson, Sr. Manager: Reginald G. Thompson Funeral Establishment License No. FD 1521 And **REGINALD G. THOMPSON** P. O. Box 5511 Stockton, CA 95205 Funeral Director License No. FDR 1001 Embalmer License No. EMB 7372 Respondents.	Case No. A1 2012 95 **A C C U S A T I O N**

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Complainant alleges:

PARTIES

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

Funeral Establishment License

2. On or about November 10, 1993, the Bureau[1] issued Funeral Establishment License Number FD 1521 to Thompson Memorial Chapel, A Corporation, Thanos Enterprises, Inc. ("Respondent Chapel"). The corporate officers are as follows: Reginald G. Thompson, President; R.G. Thompson, Vice President; and Robert G. Thompson, Sr., Secretary/ Treasurer. Reginald G. Thompson is the Manager of Respondent Chapel. The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and expired on November 30, 2012.

3. At all times relevant to the matters alleged herein, Respondent Chapel's address of record with the Bureau was: Thompson Memorial Chapel, 2102 E. Lafayette Street, Stockton, CA, 95205.

Funeral Director License

4. On or about September 10, 1997, the Bureau issued Funeral Director License No. FDR 1001 to Reginald G. Thompson ("Respondent Funeral Director"). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and expired on September 30, 2012.

Embalmer License

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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 ("Bureau"). All references herein to "Bureau" include the Cemetery Board and the Board of Funeral Directors and Embalmers, and Cemetery and Funeral Programs unless stated otherwise.

5. On or about April 2, 1983, the Bureau issued Embalmer License No. EMB 7372 to Reginald Glenn Thompson ("Respondent Embalmer"). The Embalmer License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2013, unless renewed.

JURISDICTION

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

7. Section 7686 of the Code states, in pertinent part, that the Bureau may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found guilty by the Bureau of any of the acts or omissions constituting grounds for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the Bureau shall have all the powers granted therein.

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

STATUTORY PROVISIONS

9. Code section 7690 provides, in pertinent part, that the Bureau may discipline licensees by suspension, reproval, probation, revocation, or other penalties as the Bureau deems fit.

10. Code section 7616 states, in pertinent part:

> (a) A licensed funeral establishment is a place of business conducted in a building or separate portion of a building having a specific street address or location and devoted exclusively to those activities as are incident, convenient, or related to the preparation and arrangements, financial and otherwise, for the funeral, transportation, burial or other disposition of human remains and including, but not limited to, either of the following:
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> (1) A suitable room for the storage of human remains.

(2) A preparation room equipped with a sanitary flooring and necessary drainage and ventilation and containing necessary instruments and supplies for the preparation, sanitation, or embalming of human remains for burial or transportation.

(b) Licensed funeral establishments under common ownership or by contractual agreement within close geographical proximity of each other shall be deemed to be in compliance with the requirements of paragraph (1) or (2) of subdivision (a) if at least one of the establishments has a room described in those paragraphs.

11. Code section 7691 states:

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

12. Code section 7692 states:

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. Code section 7703 states:

Violation of any of the provisions of this chapter or of the rules and regulations adopted pursuant to this chapter constitutes ground for disciplinary action.

14. Code section 7707 states:

Gross negligence, gross incompetence or unprofessional conduct in the practice of funeral directing or embalming constitutes a ground for disciplinary action.

15. Code section 7737 states:

All securities purchased by the trustor for deposit in trust and all money received from the trustor for deposit in trust shall be placed in trust with a trustee within 30 days of their receipt by the funeral establishment pursuant to a trust agreement executed by the funeral establishment, the trustor and trustee which shall provide that the trustee shall hold the money or securities in trust for the purposes for which deposited and that the trustee, upon the signature of a majority of such trustees, shall deliver the corpus of the trust to the funeral establishment upon the filing of a certified copy of the death certificate or other satisfactory evidence of the death of the beneficiary, together with satisfactory evidence that the funeral establishment has furnished the merchandise and services, provided, however, that (1) in the case of a trust agreement between any of the trustees set forth in Section 7736 and a recipient of public assistance, under the provisions of subdivision (a) of Section 11158 or paragraph (1) of subdivision (e) of Section 12152 of the Welfare and Institutions Code, and provided the value limitations of those sections are not exceeded, such trust agreement may further provide that it is irrevocable, and (2) in all other cases such trust agreement shall further provide that at any time before the funeral establishment has furnished the merchandise

and services provided for in the contract the trustor or the legally appointed representative may in writing demand and receive the return of the corpus of the trust, together with any income accrued in the trust, less the revocation fee provided for in Section 7735; provided, however, that if and when the trustor becomes otherwise eligible, or in order to become eligible, for public social services, as provided in Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, he or she may agree, at his or her option, that the trust shall be irrevocable in order to avail himself or herself of the provisions of Section 11158 or Section 12152 of the Welfare and Institutions Code. The delivery of the corpus of the trust and the accumulated income to the funeral establishment performing the services, trustor or beneficiary pursuant to the terms of this article and the trust agreement herein referred to, shall relieve the trustee of any further liabilities with regard to those funds or income therefrom.

16. Health and Safety Code section 7100 states, in pertinent part:

(a) The right to control the disposition of the remains of a deceased person, the location and conditions of interment, and arrangements for funeral goods and services to be provided, unless other directions have been given by the decedent pursuant to Section 7100.1, vests in, and the duty of disposition and the liability for the reasonable cost of disposition of the remains devolves upon, the following in the order named:

(1) An agent under a power of attorney for health care who has the right and duty of disposition under division 4.7 (commencing with Section 4600) of the probate Code, except that the agent is liable for the costs of disposition only in either of the following cases: . . . .

(2) The competent surviving spouse;

(3) The sole surviving competent adult child of the decedent or, if there is more than one competent adult child of the decedent, the majority of the surviving competent adult children. . . .

(4) The surviving competent parent or parents of the decedent. If one of the surviving competent parents is absent, the remaining competent parent shall be vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving competent parent.

(5) The sole surviving competent adult sibling of the decedent or, if there is more than one surviving competent adult sibling of the decedent, the majority of the surviving competent adult siblings. . . .

(6) The surviving competent adult person or persons respectively in the next degrees of kinship or, if there is more than one surviving competent adult person of the same degree of kinship, the majority of those persons. . . .

(7) A conservator of the person appointed under Part 3 (commencing with Section 1800) of Division 4 of the Probate Code when the decedent has sufficient assets.

(8) A conservator of the estate appointed under (commencing with Section 1800) of Division 4 of the Probate Code when the decedent has sufficient assets.

(9) The public administrator when the deceased has sufficient assets.

17. Health and Safety Code section 7103 provides that "every person, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor."

REGULATORY PROVISIONS

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

> 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.

19. California Code of Regulations, title 16, section 1277.5, subdivision (b), provides, in pertinent part: "The "survivor" is the person with the right to control disposition of the remains under Health and Safety Code section 7100, or their assignee."

COST RECOVERY

20. Code section 125.3, subdivision (a), states, in pertinent part: "Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . . upon request of the entity bringing the proceedings may request the administrative law judge may 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."

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

21. Respondent Funeral Director is subject to disciplinary action under Code sections 7686, 7690, and 7691 in that on or about February 14, 2013, in the case titled *People v. Reginald Thompson,* San Joaquin County Superior Court Case No. SF120611, Respondent was found guilty after a jury trial and convicted of four felony and one misdemeanor counts of violating Penal Code section 368, subdivision (d) [theft of elder or dependent adult in amount over

$400.00], one felony count of violating Penal Code section 487, subdivision (a) [grand theft of personal property], and one misdemeanor count of violating Penal Code section 484, subdivision (a) [petty theft]. Said crimes are substantially related to the qualifications, functions, and duties of the licenses held by Respondent. The underlying circumstances are:

a. On or about September 2005, Respondent Funeral Director committed theft from an elder or dependent adult, to wit victim M.B., in that he took $2,765.00 from the victim for payment for pre-arranged funeral and cemetery goods and services, but used the funds for his personal benefit. The jury returned the verdict of guilty against Respondent Funeral Director for violating Penal Code section 368, subdivision (d), a felony.

b. On or about August 2004, Respondent Funeral Director committed theft from an elder or dependent adult, to wit victim P.C., in that he took $5,164.00 from the victim for payment for pre-arranged funeral and cemetery goods and services, but used the funds for his personal benefit. The jury returned the verdict of guilty against Respondent Funeral Director for violating Penal Code section 368, subdivision (d), a felony.

c. On or about November 2010, Respondent Funeral Director committed theft from an elder or dependent adult, to wit victim W.S., in that he took $4,000.00 from the victim for payment for pre-arranged funeral and cemetery goods and services, but used the funds for his personal benefit. The jury returned the verdict of guilty against Respondent Funeral Director for violating Penal Code section 368, subdivision (d), a felony.

d. On or about May 2012, Respondent Funeral Director committed theft from an elder or dependent adult, to wit victim C.O., in that he took $3,600.00 from the victim for payment for pre-arranged funeral and cemetery goods and services, but used the funds for his personal benefit. The jury returned a verdict of guilty against Respondent Funeral Director for violating Penal Code section 368, subdivision (d), a felony.

e. On or about June 1, 2011, Respondent Funeral Director committed theft from an elder or dependent adult, to wit victim J.C., in that he took $950.00 from the victim for payment for funeral and cemetery goods and services, but used the funds for his personal benefit. The jury

returned a verdict of guilty against Respondent Funeral Director for violating Penal Code section 368, subdivision (d), a misdemeanor.

f. On or about January 11, 2011, Respondent Funeral Director committed grand theft of personal property, to wit $2,393.00, belonging to victim Lodi Memorial Cemetery for cemetery goods and services. The jury returned a verdict of guilty against Respondent Funeral Director for violating Penal Code section 487, subdivision (a), a felony.

g. On or about May 2012, Respondent Funeral Director committed theft in that he took personal property, that is, $270.00 belonging to victim P.M. for payment for funeral goods and services, but used the funds for his personal benefit. The jury returned a verdict of guilty against Respondent Funeral Director for violating Penal Code section 484, subdivision (a), a misdemeanor.

BACKGROUND ON ESTABLISHMENT LOCATION

22. During the Bureau's investigation of numerous complaints against all Respondents, Respondent Funeral Director admitted to a Bureau investigator that on or about January 4, 2012, Respondents[2] had been evicted from the establishment located at the address of record with the Bureau. He also admitted that he had an agreement for sharing of preparation and storage facilities between Respondents and Cano Funeral Home ("Cano"), a licensee of the Bureau. The agreement with Cano was from on or about the January 4, 2012, through on or about May 29, 2012, when Cano verbally cancelled the agreement. Cano cancelled the agreement in writing on June 29, 2012. The Bureau had no knowledge of Respondents eviction or his agreement with Cano. The Bureau had not approved Respondents agreement with Cano.

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[2] "Respondents," as used herein, refers collectively to Respondent Chapel, Respondent Funeral Director, and Respondent Embalmer

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Establishment at Address of Record;

Unapproved Shared Preparation and Storage Facilities)

23. Paragraph 22, above, is incorporated herein by reference. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that they violated Code section 7616 as follows:

a. Respondents failed to maintain the establishment at the address of record with the Bureau, had no suitable room for the storage of human remains and had no preparation room, in violation of Code section 7616, subdivision (a).

b. Respondents entered into an agreement with a Bureau licensee to share storage of human remains and a preparation room without the approval of the Bureau, in violation of Code section 7616, subdivision (b).

FUNERAL DIRECTING SERVICES - DECEDENT P.R.

24. On or about January 31, 2012, P.R. passed away. On or about January 30, 2012, survivor A.R. made arrangements with Respondents for cremation of the decedent and the return of P.R's cremated remains to A.R.

25. On or about January 30, 2012, A.R. and Respondent Funeral Director signed, among other things, a "General Price List, Statement of Funeral Goods and Services Selected, Prices Effective as of May 6, 2010" ("Service Contract") for Respondents' services including removal of remains to funeral home, disposition permit, alternative container, and cremation, for the total sum of $880.00. On said date, A.R. paid Respondents' Invoice/Statement of $880.00 in full.

26. On or about January 30, 2012, A.R. also signed an "Application and Permit for Disposition of Human Remains" ("Application") stating that Thompson Funeral Home, located in Oakland, California, ("Thompson Oakland") [a licensee of the Bureau and not associated with Respondents] was acting as the funeral director for this matter, not Respondents. The Application also states that P.R.'s cremation was on February 17, 2012, and that Roselawn Cemetery and Crematory, located in Livermore, California, performed the cremation services.

27. On or about February 21, 2012, which was five days after P.R.'s cremation and 22 days after P.R.'s death, Respondents provided P.R.'s cremated remains to J.R., also a survivor of P.R.

28. Respondent Funeral Director admitted to a Bureau investigator that he had represented to A.R. that Respondents were agents of Thompson Oakland. The truth is Respondents were not the agents of Thompson Oakland.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Untimely Delivery of Cremated Remains)

29. Complainant re-alleges paragraphs 24 through 28, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 on the grounds of unprofessional conduct within the meaning of Code section 7707 in that Respondents violated Health and Safety Code section 7103 when they failed to timely deliver P.R.'s cremated remains to A.R., a survivor of P.R.

FOURTH CAUSE FOR DISCIPLINE

(Misrepresentation)

30. Complainant re-alleges paragraphs 24 through 28, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that they violated Code section 7692 by misrepresenting to A.R. that Respondents were agents of Thompson Oakland when, in fact, they were not.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Provide Direct Supervision and Control Over Establishment)

31. Complainant re-alleges paragraphs 24 through 28, above. Respondent Funeral Director is subject to disciplinary action under Code sections 7686 and 7690 in that he violated California Code of Regulations, title 16, section 1204, subdivision (b), by failing to provide direct supervision and control over Respondent Chapel, as follows:

a. Respondent Funeral Director failed to properly manage Respondent Chapel by untimely returning P.R's cremated remains to his survivors.

b. Respondent Funeral Director continued to operate Respondent Chapel after eviction from the approved location and when he had no approved location from which to operate.

c. Respondent Funeral Director misrepresented to P.R.'s survivor that he was an agent of Thompson Oakland when the truth is he was not.

FUNERAL DIRECTING SERVICES - DECEDENT T.M.

32. On or about a December 8, 2010, T.M. passed away. On or about December 13, 2010, T.M.'s survivor, L.I., made arrangements with Respondents for cremation of the decedent and the scattering of T.M.'s cremated remains.

33. On or about December 13, 2010, L.I. and Respondents signed, among other things, a "Statement of Funeral Goods and Services Selected/Purchase Agreement" ("Service Contract") for Respondents' services including administration and professional services of funeral director, embalming, disinfecting, sanitizing, dressing, casketing, transportation, cemetery services, scattering of remains, certified death certificates, and disposition for the total sum of $2,046.00.

34. On or about December 13, 2010, L.I. and Respondents also signed an "Application and Permit for Disposition of Human Remains" ("Application") stating that Respondent Chapel was acting as the funeral director. The Application also states that T.M.'s cremation was on December 20, 2010, and that Ceres Cemetery Association, Inc., located in Ceres, California, performed the cremation services. The Application states that the scattering of T.M.'s ashes was "at sea off the coast of Los Angeles County."

35. On or about February 15, 2011, Globe Life and Accident Insurance Company paid Respondents the sum of $2,046.00 in full payment of the contracted services for T.M.

36. On or about October 2011, Respondents contacted A.M., a survivor of T.M., and inquired what the family wanted to have done with T.M.'s remains.

37. On or about January 1, 2012, T.M.'s cremated remains were delivered to Harbor Breeze Cruise who then scattered T.M.'s cremated remains over the sea on January 6, 2012, off the coast of Long Beach, California.

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SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Untimely Delivery of Cremated Remains)

38. Complainant re-alleges paragraphs 32 through 37, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 on the grounds of unprofessional conduct within the meaning of Code section 7707 in that Respondents violated Health and Safety Code section 7103 when they failed to timely scatter T.M.'s cremated remains at sea.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Provide Direct Supervision and Control)

39. Complainant re-alleges paragraphs 32 through 37, above. Respondent Funeral Director is subject to disciplinary action under Code sections 7686 and 7690 in that he violated California Code of Regulations, title 16, section 1204, subdivision (b), by failing to provide direct supervision and control over Respondent Chapel, as follows:

a. Respondent Funeral Director failed to manage Respondent Chapel by untimely scattering T.M.'s cremated remains over one year after they contracted to perform the service.

FUNERAL DIRECTING SERVICES – PRE-NEED SERVICES - M.B.

40. On or about September 22, 2005, consumer M.B. entered into a service contract with Respondents for pre-arranged funeral and cemetery services for the total amount of $2,965.00. M.B. made payments to Respondents from on or about June 17, 2007, through on or about May 31, 2010, for a total amount of $2,765.00.

41. Under the service contract, Respondents agreed to arrange for the disinterment and re-interment of M.B.'s late husband in Stockton Rural Cemetery, located in Stockton, California, so that his single burial plot could be converted to a double depth grave to add M.B. when she passed away.

42. On or about April 2012, M.B. contacted Stockton Rural Cemetery to inquire about her pre-arranged burial arrangements pursuant to the contract with Respondents. Stockton Rural Cemetery informed M.B. that there were no such pre-arranged burial arrangements.

43. M.B. contacted Respondents and demanded a reimbursement of the $2,765.00 she had paid pursuant to the contract.

44. On or about May 8, 2012, Respondents admitted to a Bureau investigator that they had received M.B.'s payments, that the funds had been deposited to Respondent Funeral Director's personal bank account, he understood the funds were entrusted to him, and he should have deposited the funds into his trust account.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Deposit Funds in Trust Account)

45. Complainant re-alleges paragraphs 40 through 44, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that Respondents violated Code section 7737 as follows:

a. Respondents failed to enter into a trust agreement with M.B.

b. Respondents received funds from M.B. in payment of pre-arranged funeral and cemetery services but did not deposit said funds into a trust account.

c. Respondents retained M.B.'s payments and deposited them into Respondent Funeral Director's personal bank account.

NINTH CAUSE FOR DISCIPLINE

(Failure to Provide Direct Supervision and Control)

46. Complainant re-alleges paragraphs 40 through 44, above. Respondent Funeral Director is subject to disciplinary action under Code sections 7686 and 7690 in that he violated California Code of Regulations, title 16, section 1204, subdivision (b), by failing to provide direct supervision and control over Respondent Chapel, as follows:

a. Respondent Funeral Director accepted payments from M.B. for pre-arranged funeral and cemetery good and services between 2007 and 2010, and failed to place the funds into a trust account.

b. Respondent Funeral Director deposited M.B.'s payments into his personal bank account.

.c. Respondent Funeral Director failed to reimburse M.B. the sum of $2,765.00 in violation of the promise he made to M.B.

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FUNERAL DIRECTING SERVICES - DECEDENT V.M.J.

47. On or about July 6, 2011, V.M.J. passed away as the victim of a homicide. On or about July 14, 2011, arrangements were made by decedent's relative, C.P.H., with Respondents for funeral and cemetery services for V.M.J. The fees for the funeral and cemetery services were paid for by Alameda County pursuant to its victims of violent crime program.

48. On or about July 14, 2011, C.P.H. and Respondents signed, among other things a "Statement of Funeral Goods and Services Selected/Purchase Agreement" ("Service Contract") for Respondents' services including administration and professional services of funeral director, embalming, disinfecting, sanitizing, dressing, casketing, transportation, casket, cemetery services, certified death certificates, disposition, and coroner fee for the total sum of $10,049.06. The charges failed to match Respondents' actual General Price List ("GPL") or were not listed thereon.

49. On or about July 20, 2011, Respondents also signed an "Application and Permit for Disposition of Human Remains" ("Application") stating that Respondent Chapel was acting as the funeral director. The Application also states that the permit and authorization for disposition was issued on July 20, 2011, and that Stockton Rural Cemetery, located in Stockton, California, performed the burial services on August 17, 2011. Decedent's death certificate states the disposition was on July 15, 2011.

50. On or about July 22, 2011, Respondents initially scheduled the decedent's burial in Stockton Rural Cemetery. V.G, decedent's mother, arrived at the cemetery on July 22, 2011, and Respondents falsely told her there was a problem with the disposition permit and the interment would not take place that day. Respondents falsely informed C.P.H. that the decedent's burial had been delayed because of an issue with the decedent's correct name. The truth is decedent's burial had been delayed because Respondents failed to pay cemetery charges to Stockton Rural Cemetery, even though the funds had been previously paid to Respondents.

51. On or about August 17, 2011, Respondents re-scheduled the decedent's interment in Stockton Rural Cemetery at 9:00 a.m. V.G. arrived early for the interment of her daughter. Respondent Funeral Director did not arrive until approximately 11:00 a.m. V.G. observed a

confrontation between the Funeral Director and the cemetery manager. Respondents' check to the cemetery had not cleared. Respondent Funeral Director left the cemetery and returned at approximately 3:00 p.m. to pay cemetery charges to the cemetery. Decedent's interment was completed at approximately 4:00 p.m.

TENTH CAUSE FOR DISCIPLINE

(Misrepresentation or Fraud)

52. Complainant re-alleges paragraphs 47 through 51, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that they violated Code section 7692 as follows:

a. Respondents misrepresented to V.G. that decedent's burial was delayed due to a problem with the disposition permit. The truth is the burial was delayed because Respondents failed to pay cemetery fees that had already been paid by Alameda County to Respondents.

b. Respondents misrepresented to C.P.H. that decedent's burial was delayed due to problems with the decedent's correct name. The truth is the burial was delayed because Respondents failed to pay cemetery fees that had already been paid by Alameda County to Respondents.

c. Respondents fraudulently charged professional service charges of $2,465.00 on the consumer contract. The truth is the charges failed to match Respondents' actual GPL offering of $1,195.00.

d. Respondents fraudulently charged other preparations charges of $340.00 on the consumer contract. The truth is the charges were not listed on Respondents' GPL offering.

e. Respondents fraudulently charged $400.00 on the consumer contract for "balance old account." The truth is the charges were not listed on Respondents' GPL offering.

f. Respondent Funeral Director admitted to the Bureau investigator that the charges failed to match Respondents' GPL offering.

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ELEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Funeral Directing)

53. Complainant re-alleges paragraphs 47 through 51, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 on the grounds of unprofessional conduct within the meaning of Code section 7707 as follows:

a. Respondents delayed the burial of the decedent, arrived late for the re-scheduled interment, failed to timely pay the cemetery for cemetery services, and initially paid the cemetery from a bank account with non-sufficient funds.

b. Respondents falsely informed the Bureau's investigator that the decedent could not be interred because the Health Department had not issued a permit. In fact, the Health Department had issued the permit on July 20, 2012, and Respondent used that permit for the delayed interment of the decedent.

TWELFTH CAUSE FOR DISCIPLINE

(Failure to Provide Direct Supervision and Control)

54. Complainant re-alleges paragraphs 47 through 51, above. Respondent Funeral Director is subject to disciplinary action under Code sections 7686 and 7690 in that he violated California Code of Regulations, title 16, section 1204, subdivision (b), by failing to provide direct supervision and control over Respondent Chapel, as follows:

a. Respondent Funeral Director failed to pay cemetery charges to the cemetery for which Respondents had already been paid.

b. Respondent Funeral Director made false statements to the decedent's family regarding the delay in the decedent's interment.

c. Respondent Funeral Director charged the decedent's family prices that were inconsistent with or not listed on Respondents' GPL.

FUNERAL DIRECTING SERVICES – PRE-NEED SERVICES – P.C.

55. On or about September 28, 2004, P.C. purchased a pre-need burial policy from Respondents for himself. L.C. is P.C.'s wife and survivor.

56. On or about September 28, 2004, P.C. entered into a "Statement of Funeral Goods and Services Selected/Purchase Agreement" ("Service Contract") for Respondents' services including administrative and professional services of funeral director, care and preparation of remains, embalming, disinfecting, viewing/visitation, funeral/memorial at church, transportation, casket, certified death certificates, and disposition for the total sum of $5,164.58.

57. On or about September 28, 2004, P.C. and Respondents entered into a Homesteaders Life Company "Assignment of Ownership (Irrevocable)" ("Assignment") contract. Pursuant to the Assignment, P.C. agreed to irrevocably assign, transfer, and deliver to Respondents the ownership rights under a policy or certificate insuring P.C.'s life. Respondents represented they would irrevocably assign, transfer, and deliver to the Trustees of the Funeral Assurance Trust, as Nominee, the ownership rights of P.C.'s life insurance policy. An undated "Funeral Assurance Trust" form ("Trust") accompanied the Assignment document listing Homesteader Life Company as the Trustor, and naming two Trustees. The Trust provided, among other things, that Homesteaders and the Trustees accepted ownership rights of the life insurance policy for P.C. to pay for funeral expenses upon P.C.'s death.

58. On or about September 28, 2004, Respondent Funeral Director represented to L.C. and P.C. that he was a licensed agent for Homesteaders Life Company.

59. On or about April 24, 2012, Homesteaders Life Company informed L.C. that the Services Contract was not a Homesteaders contract. The company also informed L.C. that Respondent Funeral Director had never been a licensed agent with Homesteaders and would not be able to sell a Homesteaders policy.

60. On or about June 28, 2012, Respondent Funeral Director admitted to the Bureau's inspector that he had not been a licensed agent for Homesteaders Life Company and that he had fraudulently taken possession of the funds paid to him by L.C. and P.C.

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THIRTEENTH CAUSE FOR DISCIPLINE

(Misrepresentation or Fraud)

61. Complainant re-alleges paragraphs 55 through 60, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that Respondents violated Code section 7692 as follows:

a. Respondent Funeral Director admittedly misrepresented to L.C. and P.C. that he was an authorized agent of Homesteaders Life Company.

b. Respondents fraudulently entered into the Assignment with P.C. when he had no authority to sell Homesteaders Life Company policies.

FOURTEENTH CAUSE FOR DISCIPLINE

(Failure to Deposit Funds in Trust Account)

62. Complainant re-alleges paragraphs 55 through 60, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that Respondents violated Code section 7737 as follows:

a. Respondents accepted $5,164.58 from P.C. and L.C. in payment of pre-arranged funeral goods and services but admittedly failed to deposit the funds into a trust account. In fact, Respondent Funeral Director deposited the funds into his personal bank account.

FIFTEENTH CAUSE FOR DISCIPLINE

(Failure to Provide Direct Supervision and Control)

63. Complainant re-alleges paragraphs 55 through 60, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that he violated California Code of Regulations, title 16, section 1204, subdivision (b), by failing to provide direct supervision and control over Respondent Chapel, as follows:

a. Respondent Funeral Director accepted $5,164.58 from P.C. and L.C. in payment of pre-arranged funeral goods and services but failed to deposit those funds into a trust account.

b. Respondent Funeral Director entered into the Assignment of life insurance with P.C. when Respondent had no authority to do so.

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FUNERAL DIRECTING SERVICES – DECEDENT R.D.C.

64. On or about May 16, 2012, R.D.C. passed away. On or about May 16, 2012, survivor K.C. made arrangements with Respondents for funeral and cemetery services for R.D.C. K.C. was a niece of R.D.C. and had no right to control disposition for R.D.C.

65. On or about May 16, 2012, K.C. and Respondents signed a "Statement of Funeral Goods and Services Select/Purchase Agreement" ("Service Contract") for Respondents' services including administrative and professional services of funeral director, refrigeration, graveside, casket, and disposition for the total sum of $1,695.00. R.D.C.'s survivors purchased a New Pointe Casket from Respondents for $665.00.

66. R.D.C.'s interment and graveside services were scheduled for May 25, 2012, at Lodi Memorial Park.

67. On or about May 25, 2012, Respondents failed to bring R.D.C.'s remains to Lodi Memorial Park for the scheduled interment and services. Respondents failed to notify R.D.C.'s family and Lodi Memorial Park that the services would need to be re-scheduled. Respondents failed to communicate with R.D.C.'s family concerning payment issues and other matters. Respondents' act resulted in Lodi Memorial Park closing the grave for R.D.C.

68. On or about May 30, 2012, Respondents appeared at Lodi Memorial Park for the re-scheduled interment for R.D.C. Lodi Memorial Park re-opened the interment for additional costs which were waived by the Lodi Memorial Park. Respondents had placed R.D.C.'s remains in a County Cloth Covered Casket which cost only $395.00.

SIXTEENTH CAUSE FOR DISCIPLINE

(Misrepresentation or Fraud)

69. Complainant re-alleges paragraphs 64 through 68, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that they violated Code section 7692 as follows:

a. R.D.C.'s family purchased a New Pointe Casket for the price of $665.00 but Respondents admittedly provided a County Cloth Covered casket which cost $395.00.

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SEVENTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Funeral Directing)

70. Complainant re-alleges paragraphs 64 through 68, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that they violated Code section 7707 as follows:

a. Respondents failed to appear at the scheduled May 25, 2012, interment for R.D.C.

b. Respondents failed to contact R.D.C.'s family and Lodi Memorial Park concerning re-scheduling the interment.

c. Respondents entered into the Service Contract with K.C., a niece to R.D.C., who had no right to control disposition of R.D.C.'s remains, pursuant to Health and Safety Code section 7100.

d. Respondents failed to communicate with R.D.C.'s family about payment issues and other matters.

e. Respondents failure to appear for the May 25, 2012, scheduled interment for R.D.C. caused Lodi Memorial Park to incur additional charges, which were waived.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Failure to Provide Direct Supervision and Control)

71. Complainant re-alleges paragraphs 64 through 68, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that he violated California Code of Regulations, title 16, section 1204, subdivision (b), by failing to provide direct supervision and control over Respondent Chapel, as follows:

a. Respondents failed to provide a casket that was purchased pursuant to the Service Contract.

b. Respondents failed to arrive at the pre-scheduled May 25, 2012, interment for R.D.C. and failed to notify the family and Lodi Memorial Park that he would not appear.

FUNERAL DIRECTING SERVICES – PRE-NEED SERVICES – E.K.

72. On or about June 11, 1998, E.K. purchased a pre-need burial policy from Respondents.

73. On or about June 11, 1998, E.K. entered into a "Statement of Funeral Goods and Services Selected/Purchase Agreement" ("Service Contract") for Respondents' services including administrative and professional services of funeral director, funeral director and staff services, care and preparation of remains, embalming, other preparation, viewing/visitation, funeral/ memorial, use of preparation/dressing room, transportation, casket, memorial service package, cemetery – Stockton Rural Cemetery, flowers, escorts, clergy/honorarium, musician/soloist, certified death certificates, and disposition for the total sum of $5,992.31. E.K. paid $5,992.31 in full.

74. On or about May 19, 2004, E.K. and Respondents signed a "Service with Quality and Care" agreement ("Agreement") whereby E.K. instructed Respondents to change the trust dated June 1998 to take $1,200.00 from the trust and to pay for a cemetery plot at Stockton Rural Cemetery on April 20, 2004. E.K. and Respondents agreed that the remainder of the trust is $4,792.31 as of May 2004.

75. On or about April 20, 2004, Respondents prepared a "Stockton Rural Cemetery Pre-Need Lot Sale" agreement stating that E.K. purchased a lot in the cemetery for $1,200.00, paid by a check from Respondents.

76. On or about June 28, 2012, Respondent Funeral Director admitted to a Bureau investigator that he had entered into a pre-arrangement contract with E.K. on June 11, 1998, that he fraudulently took possession of $5,992.31, and he did not deposit the funds into a trust account. Respondent Funeral Director also admitted that $1,200.00 had been withdrawn to cover cemetery charges at Stockton Rural Cemetery and he had not refunded the remaining amount of $4,792.31. to E.K.

NINETEENTH CAUSE FOR DISCIPLINE

(Failure to Deposit Funds in Trust Account)

77. Complainant re-alleges paragraphs 72 through 76, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that Respondents violated Code section 7737 as follows:

a. Respondents received funds from E.K. in payment of pre-arranged funeral and cemetery services but did not deposit said funds into a trust account.

b. Respondent Funeral Director purchased a lot at Stockton Rural Cemetery and retained the remainder of E.K.'s funds for his personal use.

TWENTIETH CAUSE FOR DISCIPLINE

(Misrepresentation or Fraud)

78. Complainant re-alleges paragraphs 72 through 76, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that Respondents violated Code section 7692 as follows:

a. Respondents accepted $5,992.31 from E.K. in payment of pre-arranged funeral goods and services but admittedly failed to deposit the funds into a trust account. In fact, Respondent Funeral Director deposited the funds into his personal bank account.

b. Respondents misrepresented to E.K. that $1,200.00 was withdrawn from the trust for payment of a cemetery plot. The truth is, no money received from E.K. had been placed in a trust account.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Failure to Provide Direct Supervision and Control Over Establishment)

79. Complainant re-alleges paragraphs 72 through 76, above. Respondent Funeral Director is subject to disciplinary action under Code sections 7686 and 7690 in that he violated California Code of Regulations, title 16, section 1204, subdivision (b), by failing to provide direct supervision and control over Respondent Chapel, as follows:

a. Respondents accepted money for pre-arranged goods and services from E.K. in 1998 but failed to place the funds into a trust account.

b. Respondents required E.K. to sign a letter in 2004 indicating $1,200.00 was being withdrawn from a trust to pay Stockton Rural Cemetery, when no such trust account existed.

FUNERAL DIRECTING SERVICES – PRE-NEED SERVICES – W.O.S.

80. On or about November 22, 2010, W.O.S. purchased a pre-need burial policy from Respondents.

81. On or about November 22, 2010, W.O.S. entered into a "Statement of Funeral Goods and Services Selected/Purchase Agreement" ("Service Contract") for Respondents' services including administrative and professional services of funeral director, funeral director and staff services, care and preparation of remains, embalming, other preparation, transportation, casket, certified death certificates, and disposition for the total sum of $4,000.00. W.O.S. paid $4,000.00 by using his Mastercard.

82. On or about June 28, 2012, Respondent Funeral Director admitted to a Bureau investigator that he had entered into a pre-arrangement contract with W.O.S. on November 22, 2010, that he fraudulently took possession of $4,000.00 from W.O.S., and he did not place the funds in a trust account.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Misrepresentation or Fraud)

83. Complainant re-alleges paragraphs 80 through 82, above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 in that Respondents violated Code section 7692 as follows:

a. Respondents accepted $4,000.00 from W.O.S. in payment of pre-arranged funeral goods and services but admittedly failed to deposit the funds into a trust account. In fact, Respondent Funeral Director deposited the funds into his personal bank account.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Failure to Provide Direct Supervision and Control Over Establishment)

84. Complainant re-alleges paragraphs 80 through 82, above. Respondent Funeral Director is subject to disciplinary action under Code sections 7686 and 7690 in that he violated California Code of Regulations, title 16, section 1204, subdivision (b), by failing to provide direct supervision and control over Respondent Chapel, as follows:

a. Respondents accepted money for pre-arranged goods and services from W.O.S. but failed to place the funds into a trust account.

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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 of Consumer Affairs issue a decision:

1. Revoking or suspending Funeral Establishment License Number FD 1521 issued to Thompson Memorial Chapel, A Corporation, Thanos Enterprises, Inc.;

2. Revoking or suspending Funeral Director License No. FDR 1001 issued to Reginald G. Thompson;

3. Revoking or suspending Embalmer License No. EMB 7372 issued to Reginald Glenn Thompson;

4. Ordering Thompson Memorial Chapel, A Corporation, Thanos Enterprises, Inc. and Reginald G. Thompson, and Reginald Glenn Thompson 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

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

DATED: 4/9/13

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

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