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

10
11 In the Matter of the Accusation Against:
12 **BELOVED CARE FUNERAL SERVICE;**
JAMES OTIS GAMBLE, JR.
13 **115 18th Street**
Bakersfield, CA 93301
14
15 **Funeral Establishment License No. FD 1807**
16 **Funeral Director License No. FDR 1318**
17 **Embalmer License No. EMB 8693**
18 Respondents.

Case No. A1 2013 303

A C C U S A T I O N

19
20
21 Complainant alleges:

22 **PARTIES**

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

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
(continued...)

1 in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the
2 bureau shall have all the powers granted therein.”

3 6. Section 7692 of the Code states:

4 “Misrepresentation or fraud in the conduct of the business or the profession of a funeral
5 director or embalmer constitutes a ground for disciplinary action.”

6 7. Section 7707 of the Code states:

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

9
10 **COST RECOVERY**

11 8. Section 125.3 of the Code provides, in pertinent part, that the Director may request
12 the administrative law judge to direct a licentiate found to have committed a violation or
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
14 and enforcement of the case.

15
16 **BACKGROUND FACTS**

17 *Infant Cremation*

18 9. On or around September 9, 2013, J.C.² filed a complaint with the Bureau alleging that
19 Respondent failed to cremate J.C.’s infant child (infant) after more than three (3) months in
20 Respondent’s possession. The complaint also alleged that Respondent was paid for its services.

21 10. The same day, Kern County Vital Records office confirmed that Respondent failed to
22 follow proper procedure with the infant by failing to file a death certificate timely.

23 11. Respondent admitted that he failed to obtain a doctor’s signature for purposes of
24 filing the infant’s death certificate.

25 12. Respondent also failed to prepare a contract for J.C. prior to rendering services.
26

27 _____
28 ² Initials are used in each instance in order to protect consumer identity and preserve consumer confidentiality.

DISCIPLINARY CONSIDERATIONS

29. To determine the degree of discipline, Complainant alleges that:

a. On or about May 3, 2013, the Bureau issued Citation No. IC 2013 158 to Respondents for violating Bus. & Prof. Code section 7628 [failure to properly request change of location]. Specifically, on or around March 12, 2013, Respondent Establishment operated at 4840 E. Brundage Lane, Bakersfield, CA (Brundage) without authorization. A \$250.00 administrative fine was imposed.

b. On or about May 3, 2013, the Bureau also cited Respondent for violating Cal. Code of Regs. Title 16, section 1214 [failure to obtain express authorization for embalming]. Specifically, on or around March 12, 2013, Respondent Establishment failed to complete Authorization for Disposition With or Without Embalming forms for several decedents. No fine was assessed, however, Respondent was informed "abatement will be considered satisfactory resolution of the violation."

c. On or about February 21, 2013, the Bureau issued Citation No. IC 2013 62 to Respondent for violating Bus. & Prof. Code section 7616 [operating at an unapproved location]. Specifically, on or around February 13, 2013, Respondent Establishment was discovered operating without approval at the Brundage location without Bureau approval. A \$1001.00 administrative fine was assessed.

d. On or about February 21, 2013, the Bureau also cited Respondent for violating Bus. & Prof. Code section 7628 [failure to properly request change of location]. Specifically, on or around February 13, 2013, Respondent Establishment operated at Brundage without authorization. Respondent failed to correct the deficiencies contained in a June 2012 application for change in location. A \$100.00 administrative fine was assessed.

e. On or about February 21, 2013, the Bureau also cited Respondent for violating Bus. & Prof. Code section 7680 [failure to conspicuously display license]. Specifically, on or around February 13, 2013, Respondent failed to post in public view, its original wall license as required. A \$100.00 administrative fine was assessed.

PRAYER

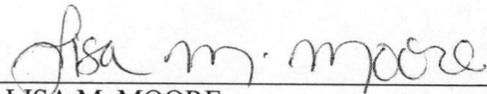
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking or suspending Funeral Establishment License Number FD 1807 issued to Beloved Care Funeral Service; revoking or suspending Funeral Director License Number FDR 1318 and Embalmer License Number EMB 8693 issued to James Otis Gamble, Jr.;

2. Ordering James Otis Gamble, Jr. 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;

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

DATED:

January 17, 2014 

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

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