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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: **BASHAM FUNERAL CARE** **Golden State Funeral Care – Corporate Owner** **John L. Basham – President and Manager** **James Larkin – Secretary and Treasurer** **3312 Niles Street** **Bakersfield, CA 93306** **Funeral Establishment License No. FD 1708** **JOHN L. BASHAM** **3312 Niles Street** **Bakersfield, CA 93306** **Funeral Director License No. FDR 453** Respondents.	Case No. A1 2014 50 **A C C U S A T I O N**

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.[1]

[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.

2. On or about June 15, 2000, the Cemetery and Funeral Bureau ("Bureau") issued Funeral Establishment License Number FD 1708 to Basham Funeral Care. Since June 18, 2014, Basham Funeral care has consisted of Golden State Funeral Care as the Corporate Owner, John L. Basham as the president and manager, and James Larkin as the Secretary and Treasurer ("Respondent Basham Funeral Care.") The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless renewed.

3. On or about March 14, 1997, the Bureau issued Funeral Director License Number FDR 453 to John L. Basham ("Respondent John Basham"). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2016, unless renewed.

JURISDICTION

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

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

6. Section 477 states:

As used in this division:

"(a) 'Board' includes 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and 'agency.'

"(b) 'License' includes certificate, registration or other means to engage in a business or profession regulated by this code."

7. Section 7686 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, 1 and the bureau shall have all the powers granted therein.

STATUTORY PROVISIONS

8. 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."

9. Section 7703 states: "Violation of any of the provisions of this chapter or of the rules and regulations adopted pursuant to this chapter constitutes a ground for disciplinary action."

10. Section 7707 states: "Gross negligence, gross incompetence or unprofessional conduct in the practice of funeral directing or embalming constitutes a ground for disciplinary action."

11. Health and Safety Code section 103775 states:

"(a) Every person, except a parent informant for a certificate of live birth and as provided in subdivision (b), who is responsible for supplying information who refuses or fails to furnish correctly any information in his or her possession that is required by this part, or furnishes false information affecting any certificate or record required by this part, is guilty of a misdemeanor.

"(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) or Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who is responsible for supplying information and who refuses or fails to furnish correctly any information in his or her possession that is required by this part, or furnishes false information with intent to defraud affecting a death certificate or record required by this part, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine."

12. Health and Safety Code section 103780 states:

"(a) Every person, except as provided in subdivision (b), who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies any certificate of birth, fetal death, or death, or marriage license, or any record established by this part is guilty of a misdemeanor.

"(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) or Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who willfully alters or knowingly possesses more than one altered document, other than as permitted by this part, or falsifies any certificate of death, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or by both that imprisonment and fine."

REGULATORY PROVISIONS

13. California Code of Regulations, title 16, section 1204 states, in pertinent part:

"(a) Any person, association, partnership, corporation or other organization licensed and conducting business as a funeral establishment shall designate a licensed funeral director to manage the establishment, and shall report the designation to the bureau within ten (10) days of the effective date of the designation.

"(b) 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."

COST RECOVERY

14. Section 125.3 provides, in pertinent part, that the Bureau may request the administrative law judge to 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.

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SALINAS COMPLAINT

15. On or about February 10, 2014, the Bureau received a complaint from M. Salinas, the Registrar for the Kern County Health Department, alleging that Respondent Basham Funeral Care was forging attending physician signatures on death certificates and that Respondent Basham Funeral Care would fax the forged attestation to Respondent Basham Funeral Care's fax number instead of to the Electronic Death Registration System ("EDRS") fax number (the "Salinas Complaint.") Faxing the death certificate through the EDRS is required to file the death certificates with the Kern County Health Department. By faxing the document through Respondent Basham Funeral Care's own fax number, the EDRS death certificate attestation registration requirement was being circumvented.

16. On or about March 13, 2014, Field Representative Steve Allen met with Dr. Jennifer Black, who reviewed a signature on a death certificate attestation with her name on it and confirmed that she did not sign the attestation.

17. On or about May 2, 2014, Field Representative Allen received a sixteen (16) page report from EDRS showing that between May 2006 and April 2014, approximately 600 death certificate attestations were faxed from Respondent Basham Funeral Care's fax number, to Respondent Basham Funeral Care's same, own, fax number as opposed to the EDRS fax number. The report also showed many of the death certificate attestations had an unusually short turnaround time between when the attestation was requested and the attestation was completed.

18. On or about May 7, 2014, Field Representative Allen spoke with C.W., an employee of Respondent Basham Funeral Care. C.W. admitted that she was told by Respondent Basham to release her EDRS username and password to unauthorized and untrained employees because Respondent Basham did not want to give other employees time off to attend training. On or about May 14, 2014, C.W. stated that Respondent Basham had told her on multiple occasions "I don't care what you need to do, just get it done."

19. On or about May 7, 2014, Field Representative Allen spoke with V.G., an employee of Respondent Basham Funeral Care. V.G. admitted that she had given her EDRS user name and password to C.W., in contravention of EDRS policy.

20. That same day, Field Representative Allen also spoke with Respondent Basham. Respondent Basham stated that C.W. was the one who forged the death certificate attestations.

21. Through the investigation spanning from May 9, 2014, through June 19, 2014, Field Representative Allen confirmed with eleven different doctors that they had not signed the death certificate attestations bearing their names that were prepared by Respondent Basham Funeral Care.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Alter or Possess Altered Death Certificate)

22. Respondent Basham Funeral Care and Respondent John Basham (collectively, "Respondents") are subject to disciplinary action under section 7707 in conjunction with Health and Safety Code section 103780, subdivision (b), in that Respondents altered death certificates or knowingly possessed altered death certificates. The circumstances are described in additional detail in paragraphs 15 through 21, inclusive, which are hereby incorporated by reference as though set forth fully.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Furnishing False Information Affecting a Death Certificate)

23. Respondents are subject to disciplinary action under section 7707 in conjunction with Health and Safety Code section 103775, subdivision (b), in that Respondents furnished false information affecting death certificates. Respondents possessed death certificates, then altered those death certificates by forging physician attestation signatures on the death certificates. The altered death certificates, and attached applications and permits for disposition of human remains, were furnished and transmitted to the Kern County Health Department. The circumstances are described in additional detail in paragraphs 15 through 21, inclusive, which are hereby incorporated by reference as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Sharing EDRS User Name and Password)

24. Respondents are subject to disciplinary action under section 7707 in that employees of Basham Funeral Care shared their EDRS user names and passwords in contravention of EDRS

procedure. Basham Funeral Care employee C.W. admitted that she was told by Respondent Basham to give her EDRS username and password to unauthorized and untrained employees. Basham Funeral Care employee V.G. also admitted that she gave her EDRS user name and password to C.W., in contravention of EDRS policy. The circumstances are described in additional detail in paragraphs 17 through 19, inclusive, which are hereby incorporated by reference as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Misrepresentation or Fraud)

25. Respondents are subject to disciplinary action under section 7692 in that Respondents' actions represent misrepresentation or fraud in the conduct of operating a funeral establishment and acting as a funeral director. Respondents altered death certificates by forging physician attestation signatures, Respondents then faxed the false attestations to their own fax number instead of the EDRS fax number, thus not legally registering the death certificate, and Respondents then transmitted the altered death certificates and attached applications and permits for disposition of human remains to the Kern County Health Department. The circumstances are described in additional detail in paragraphs 15 through 21, inclusive, which are hereby incorporated by reference as though set forth fully.

FERNANDEZ AND GONZALEZ COMPLAINTS

26. On or about July 29, 2014, the Bureau received a complaint from C. Fernandez, alleging that Respondent Basham Funeral Care scheduled funeral services for R.A. but failed to have the permit for interment completed so that R.A. could be buried on the same day as the service. Funeral services for R.A. were scheduled for May 28, 2014, with a two and a half hour viewing held at Respondent Basham Funeral Care. The interment was then scheduled to follow the viewing the same day at National Cemetery. When R.A's family arrived at National Cemetery, they were informed that the interment could not occur because Respondent Basham Funeral Care had not obtained a burial or disposition permit. R.A. was later buried on June 4, 2014.

27. On or about August 5, 2014, the Bureau received a complaint from M. Gonzalez, alleging that Respondent Basham Funeral Care scheduled funeral services for M.L.G. but failed to

have the permit for interment completed prior to the scheduled interment for M.L.G. Respondent Basham Funeral Care was able to procure the necessary permit the same day of the scheduled service, but was so late that approximately seventy-five percent of M.L.G.'s family had left before the interment could actually take place much later the same day.

28. On or about January 15, 2015, Field Representative Daniel Redmond met with Respondent John Basham. Respondent John Basham stated that the interment delays for R.A. and M.L.G. were the Kern County Health Department's fault because Kern County was requiring that Respondent John Basham hand file death certificates and disposition permits due to the Salinas Complaint. Respondent John Basham stated that after he filed the documents, the Kern County Health Department was making him wait seven business days before they would issue the certificates and permits.

29. On or about February 3, 2015, Field Representative Daniel Redmond spoke with Denise Smith from the Kern County Health Department regarding the Fernandez Complaint. Ms. Smith confirmed that Respondent Basham Funeral Care was placed on a restriction due to the Salinas Complaint. Ms. Smith further indicated that the county needed seven days to process Respondent Basham Funeral Care's paperwork so that Kern County could verify whether the information submitted by Respondent Basham Funeral Care was accurate in order to protect the public.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

30. Respondents are subject to disciplinary action under section 7707 for unprofessional conduct in that Respondents scheduled funeral services in conjunction with interment services, or allowed interment services to be scheduled, even though Respondents knew or reasonably should have known that the Kern County Health Department had placed Respondent Basham Funeral Care on a restriction such that Respondents would not be able acquire the necessary disposition permits in time for the originally scheduled interments of R.A. and M.L.G. The circumstances are described in additional detail in paragraphs 26 through 29, inclusive, which are hereby incorporated by reference as though set forth fully.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Supervise)

31. Respondent John Basham is subject to disciplinary action under section 7703 and California Code of Regulations, title 16, section 1204, in that Respondent John Basham failed to ensure that Respondent Basham Funeral Care was in full compliance with the Funeral Directors and Embalmers Law, when Respondent Basham Funeral Care was not, for the reasons identified in paragraphs 22 through 25 and paragraph 30. Paragraphs 22 through 25, inclusive, and paragraph 30 are hereby incorporated by reference as though set forth fully.

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 1708, issued to Basham Funeral Care with John L. Basham as the president and manager, and James Larkin as the Secretary and Treasurer;

2. Revoking or suspending Funeral Director License Number FDR 453, issued to John L. Basham;

3. Ordering Basham Funeral Care and John L. Basham 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,

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

DATED: April 9, 2015

Lisa M. Moore

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

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