

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

In the Matter of the Accusation Against:

ETERNAL REST MORTUARY  
DIRECTORS,  
DORETHA L. COOPER, OWNER

Funeral Establishment License No. FD 1811

and

BERNADETTE C. JACKSON

Funeral Director License No. FDR 1735,

Respondents.

Case No. A1 2007 505

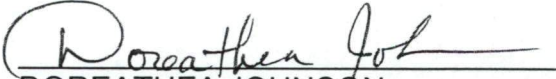
OAH No. L2009050830

**DECISION**

The attached Proposed Decision and Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter.

This Decision shall become effective JANUARY 13, 2010

IT IS SO ORDERED this 14th day of December, 2009.

  
DOREATHEA JOHNSON  
Deputy Director, Legal Affairs Division  
Department of Consumer Affairs

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**BERNADETTE C. JACKSON**

**Funeral Director License No. FDR 1735,**

**Respondents.**

**Case No. A1 2007 505**

**OAH No. L2009050830**

**PROPOSED DECISION**

This matter came on regularly for hearing on October 21 and 22, 2009, in Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

Complainant, Sherrie Moffet-Bell, Chief of the Cemetery and Funeral Bureau of the State of California (Bureau), was represented by Shawn P. Cook, Deputy Attorney General.

Eternal Rest Mortuary Directors (Respondent or Eternal Rest) was represented by its owner, Doretha L. Cooper (Cooper).

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Respondent Bernadette C. Jackson is deceased. The evidence did not disclose her date of death. She did not file a Notice of Defense in this action and, on or about December 24, 2008, the Bureau entered her default and revoked her Funeral Director License, effective January 23, 2009. Accordingly, this matter proceeded against Eternal Rest only.

Oral and documentary evidence was received. The record was closed on October 22, 2009, and the matter was submitted for decision.

## **FACTUAL FINDINGS**

The Administrative Law Judge makes the following factual findings:

### **Background Information**

1. On March 25, 2004, the Bureau issued Funeral Establishment License number FD 1811 to Respondent. The license was in full force and effect at all relevant times. It will expire on March 31, 2010, unless renewed.

2. Cooper is the sole owner of Eternal Rest. Her business caters to low income families. She prides herself on her sensitive treatment of grieving families and attributes the fact that 85 percent of the families who have been customers return when they need additional mortuary services. Cooper claims that she and her employees "walk in the spirit of excellence."

### **Kenneth B. Pitchford**

3. Kenneth B. Pitchford (Pitchford) is a former licensee of the Bureau having held Funeral Director License No. FDR 1346, and having been the owner of Kenneth B. Pitchford & Sons Family Mortuary in Perris and Los Angeles, California (Funeral Establishment License Nos. FD 1566 and FD 1529, respectively). By way of a default decision, the Bureau revoked all three of Pitchford's licenses, effective December 4, 2001. The evidence did not disclose the reason(s) for the license revocations.

4. Pitchford is a convicted felon. In or about March 2006, he was convicted, on his plea of guilty, of two counts of engaging in fraudulent transactions with access devices in violation of 18 U.S.C. 1029. He was sentenced to 13 months in federal prison followed by three years of supervised release and was ordered to pay restitution of \$173,000 to the United States Department of Veterans Affairs (VA). He was also ordered to pay a special assessment of \$400. In addition, Pitchford was prohibited from working in a field that requires government licensing.

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5. The facts and circumstances underlying the conviction are that Pitchford obtained \$361,500 by using the VA's credit card while fraudulently claiming to perform mortuary services on behalf of unclaimed deceased veterans. Pitchford also admitted to federal authorities that he paid bribes to a VA employee in order to facilitate the scheme.

6. Pitchford is presently making restitution payments. The evidence did not disclose the present balance on the \$173,000 in restitution ordered by the court.

7. At all relevant times, Pitchford was employed by Respondent as a mortuary aide, funeral agent and marketing analyst, despite the prohibition against his working in any field requiring government licensing. At the administrative hearing, Pitchford justified his conduct by claiming he had not performed any work in connection with Eternal Rest that required an occupational or professional license.

### **The Espinoza Matter**

#### **The Forged Document**

8. On October 23, 2007, an individual with the surname of Espinoza (Espinoza or decedent<sup>1</sup>) died at Los Angeles County, University of Southern California Medical Center. Pitchford picked up the body at the LAC/USC morgue to be prepared at Eternal Rest for cremation at another facility.

9. Espinoza weighed approximately 600 pounds at the time of his death. Because of the size of the body, Eternal Rest was unable to store it. Therefore, on October 30, 2007, Pitchford obtained permission to store the body at the Los Angeles County Coroner's facility (LACC), and he transported the body to that facility.

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<sup>1</sup> The full name of the decedent is not used in this Decision in order to protect his privacy and that of his family.



10. At 5:05 the following morning, LACC investigator Betsy Magdaleno (Magdaleno) telephoned Eternal Rest to arrange for the body to be transported to Eternal Rest for the cremation preparation. She left a message which Pitchford later returned. In her telephonic message, Magdaleno told Pitchford he was required to pick up the body, and that she could not sign out the body to him until he provided her office with a completed Order for Release (Form 5<sup>2</sup>) and a check for the body storage. When he returned her call, Pitchford assured Magdaleno that he would be at LACC by 7:30 a.m. with the check and the Form 5. Despite numerous telephone calls to him and Eternal Rest by LACC personnel, Pitchford did not arrive until approximately 11:00 a.m. The Form 5 Pitchford produced appeared to have been photocopied.

11 After Pitchford left LACC, Magdaleno realized that the signatures of Espinoza's next of kin, his mother, were different on the front and back of the form. The back of the form certifies that the body has been identified. Magdaleno compared the signatures to the mother's Cal-Photo DMV signature and found it matched the signature on the front of the form, but not the one on the back. Magdaleno concluded that the signature on the back of the form had been forged. She notified Cooper that she could not complete the death certificate until she obtained a valid signature from the decedent's mother on the back of the Form 5.

12. Within minutes, Pitchford telephoned Magdaleno, angrily accused her of racial prejudice, and told her he was waiting for her to bring him to court. Magdaleno attempted to explain the problem with signature on the Form 5, but Pitchford continually interrupted her and eventually hung up. Shortly thereafter, Magdaleno learned of Pitchford's conviction for fraudulent activity.

13. Magdaleno later met with the decedent's mother and obtained her signature on the back of the Form 5. Espinoza's mother told Magdaleno, and later testified in the administrative hearing, that the signature on the back of the Form 5, at the time Pitchford brought it to LACC, was not hers. She told Magdaleno that it was Pitchford who had assisted her with her son's funeral arrangements.

14. Upon receipt of the actual signature of the decedent's mother on the back of the Form 5, Magdaleno completed the death certificate and the body was prepared for cremation.

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<sup>2</sup> The Order for Release is a County of Los Angeles document known in the local industry as a "Form 5."

15. At the administrative hearing, Pitchford testified that he witnessed the decedent's mother sign both sides of the Form 5, that he brought the completed Form 5 to the LAC/USC morgue when he picked up the body for transport to LACC, and that he gave the form to LAC/USC personnel who took it and returned with a closed manila envelope which contained the Form 5 he subsequently gave to Magdaleno. That testimony was not credible in that it was contradicted by the credible testimony of an acting supervisor at LAC/USC who stated that the Form 5's received at LAC/USC are placed in the patients' charts and are not returned. Pitchford's testimony was also belied by the decedent's mother who testified that her signature did not appear on the back side of the Form 5 until she signed it in Magdaleno's presence. (See also Evid. Code, §780, subs. (e) and (f), and §788.)

### **The Mortuary Charges**

16. As is more fully set forth in Legal Conclusion 6, a mortuary is required to provide to its customers two price lists, one for general charges and the other for caskets. The mortuary is permitted to set its own prices, but it is not permitted to change them without notice to the consumers, whether or not the price lists contain a caveat that the prices are subject to change without notice.

17. Complainant established the truth of the allegations contained in Paragraph 12, subparagraphs (a) through (d) of the Accusation, regarding the prices charged by Respondent, by and through its agent, Pitchford, in connection with the Espinoza matter. Those allegations are repeated verbatim below and are incorporated herein as factual findings:

a. On or about October 26, 2007, Respondent charged the family of decedent Espinoza \$300 for "Other Preparation of Body", services which were stated on the General Price List (GPL) to only cost \$75. The GPL defines "Other Preparation of Body" as "dressing, casketing and cosmetizing of deceased". The decedent's body was cremated at his family's request, so these services should not have been charged at all.

b. On or about October 26, 2007, Respondent charged the family of decedent Espinoza \$250 for the use of a "Service/Utility Vehicle". The decedent's body was cremated at his family's request, so these services should not have been charged at all. There is no documentation in the record for the use of a service vehicle for the exclusive use of transporting Espinoza's remains.

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c. On or about October 26, 2007, Respondent charged the family of decedent Espinoza \$395 for "Cardboard box 5x." However, the decedent's body was cremated at his family's request, and the remains were placed in an air tray. The decedent's remains were not placed in a cardboard box, and the decedent's family should not [have] been assessed this charge. . . .

d. On or about October 26, 2007, Respondent charged the family of decedent Espinoza \$700, as a cash advance for crematory costs. The actual cost associated with decedent's cremation was in the amount of \$608.50.

18. The use of a service/utility vehicle was not referenced anywhere on Respondent's GPL. The vehicle that was used to transport Espinoza's remains was a standard cargo van that was owned by Respondent. Pitchford initially told a bureau investigator that the van was his own personal vehicle. He later admitted that his statement had been untrue.

19. A "cardboard box 5x" was not referenced anywhere on Respondent's GPL. The decedent was not placed in a cardboard box. He was placed in an air tray equipped with a cardboard lid.

20. The casket and general price lists at Eternal Rest were maintained as a single document. Cooper and Pitchford justified their overcharging Espinoza's family, as set forth above, on the bases of the size of the decedent's body and a notice on the casket price list indicating that Respondent's prices were subject to change without notice.

21. The crematory costs were not a cash advance. Pitchford, acting as Respondent's agent, charged the family \$700 as a cash advance for crematory costs on October 26, 2007. The crematory charged Eternal Rest \$608.50 on November 5, 2007. Eternal Rest paid the crematory only \$600 on that date. The crematory waived the \$8.50 balance. Respondent's representation to the decedent's family that it had advanced \$700 to the crematory on the family's behalf constitutes a knowing and deliberate misrepresentation.

22. On a date not disclosed by the evidence, Respondent refunded \$92 to Espinoza's mother.

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23. In a December 5, 2007 interview with a Bureau investigator, Cooper stated that she had no involvement in the Espinoza matter, and that Pitchford had handled all of the arrangements. However, Cooper's signature appeared on the "Disclosure of Preneed Funeral Agreement" and on the "Declaration for Disposition of Cremated Remains." Cooper told the investigator that she had reviewed the Espinoza file after all arrangements had been completed, and had signed her name as the arrangement counselor in all spaces that had been left blank. She justified her actions by claiming that, although she was not the arrangement counselor on the Espinosa matter, she was an arrangement counselor. She believed she could also have signed the documents as "owner." The investigator considered Cooper's admission that she signed the documents to be significant because the Bureau had previously issued citations against Respondent for Cooper's signing documents without authority.

**Factors in Aggravation**

24. On or about October 6, 2006, the Bureau issued Citation Number IC 2006 75 against Respondent for violation of Business and Professions Code<sup>3</sup> section 7707 (Gross Negligence, Gross Incompetence or Unprofessional Conduct). The allegations underlying the citation were as follows:

Cemetery and Funeral Bureau Field Representative Theodis Mims conducted an investigation into a complaint filed by Sharon Crabtree, Death Unit Supervisor for County of Orange Health Care Agency, alleging an employee of Eternal Rest Mortuary Directors forged a Deputy Coroner's signature on the death certificate for S.K. [4] The investigation conducted by Mr. Mims revealed that Deputy Coroner Mitchell Sigal did not sign the death certificate for decedent K., nor did he give anyone from Eternal Rest Mortuary Directors permission to sign his name. An August 14, 2006 Declaration, signed by funeral establishment manager of record Bernadette Jackson, confirmed that Doretha Cooper, not Deputy Coroner Sigal, signed the death certificate for S.K. that was filed with the County.

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<sup>3</sup> All statutory references are to the Business and Professions Code unless otherwise indicated.

<sup>4</sup> The initials of all decedents and their family members are used in this Decision in lieu of their names in order to protect their privacy.

25. The facts underlying the allegations are that Mims received a complaint from the Orange County Health Department that someone associated with Eternal Rest had forged a deputy coroner's signature on a death certificate. At first, Cooper denied the forgery. Later she told Mims that the signed death certificate had been picked up at the coroner's office for completion at Eternal Rest. However, while completing the document, she made a mistake, so she filled out another death certificate and signed the deputy coroner's name to it because the certificate was intended to remain at Eternal Rest and was not to be sent to the Health Department for filing. That explanation was not credible in that the deputy coroner's signature would not have been necessary if Cooper had wanted only to maintain a copy of the death certificate for her records. In addition, if that had been the only purpose for the forged death certificate, a mistake on the original document would have been immaterial.

26. The Bureau imposed a fine of \$1,001 on Respondent in connection with the above allegations. Respondent paid the fine.

27. On or about May 11, 2007, the Bureau issued Citation Number IC 2007 55 against Respondent for violation of Code section 7707 (Gross Negligence, Gross Incompetence or Unprofessional Conduct). The allegations underlying the citation were as follows:

Cemetery and Funeral Bureau Field Representative Theodis Mims conducted an investigation into the services provided by Eternal Rest Mortuary Directors for decedent M.J. The investigation conducted by Mr. Mims revealed that the funeral establishment demonstrated unprofessional conduct in regard to the issues of forgery and misstatements on certain required documents in conjunction with the death and disposition of decedent M.J. The daughter of the decedent, S. W., indicates that she did not sign the Declaration for Disposition of Cremated Remains form, although it bears a signature the establishment represented to be hers dated January 18, 2007. Further, the establishment placed statements on the disposition permit and death certificate for M.J. indicating that she would be buried instead of cremated, contrary to the wishes of the family. Additionally, Eternal Rest Mortuary Directors presented the J. family with a Statement of Funeral Goods and Services Selected that was inconsistent with the prices on the establishment's General Price List (GPL).

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28. The facts underlying the allegations are that Bureau investigator Mims received a complaint from a funeral director in Mesa, Arizona stating that Respondent's personnel transported a body from Arizona to California without a permit. Mims found that the signatures on the cremation forms were inconsistent with other signatures in the file. The decedent's daughters informed the investigator that they had signed certain documents but had not signed the cremation forms. In addition, the decedent's family purchased a casket from the mortuary, but the remains were removed from the casket after the ceremony, and Eternal Rest returned the casket to the casket company for a refund. Cooper stated that the casket had been a rental casket. That explanation did not convince Mims because casket rentals were not reflected on the price list, and because rental caskets are not returned to the casket company.

29. Cooper denied forging the cremation documents and further denied that anyone at Eternal Rest did so. However, no reason exists to disbelieve the decedent's daughters, and no one other than Respondent's personnel had a motive or opportunity to forge the documents. Further, Cooper did not appeal the citation.

30. The Bureau imposed a fine of \$1,500 on Respondent in connection with the above allegations. Respondent paid the fine.

31. Complainant failed to prove the allegation in Paragraph 12, subparagraph (e) of the Accusation, that Pitchford forged the signature of Espinoza's mother on the back side of the Form 5. However, Complainant did prove that the forgery was made by one of four individuals, all of whom worked at Eternal Rest.

32. The events which gave rise to the instant action occurred approximately five months after the second citation was issued against Respondent. Both the 2006 and the 2007 citation cases, and the instant case, involve allegations of forgery and fraud.

### Costs

33. The Board incurred costs, including attorney fees, in the total sum of \$6,800.84 in connection with the investigation and prosecution of this action. Those costs are deemed just and reasonable.

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34. In addition, in his Declaration, the Deputy Attorney General estimated that he did or would bill an additional 10 hours of work on the file prior to the commencement of the hearing, at an hourly rate of \$170. The Deputy Attorney General's declaration is dated October 20, 2009, the day before the hearing. The Deputy Attorney General did not offer any evidence of his having worked on the file between the time he signed his Declaration and the commencement of the hearing, and no such work can be inferred. The request for an additional \$1,700 in attorney's fees is denied.

35. Complainant shall recover \$6,800.84 in investigation and prosecution costs.

### LEGAL CONCLUSIONS

Pursuant to the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to revoke or suspend Respondent's funeral establishment license pursuant to Business and Professions Code section 7692, for misrepresentation and fraud, as set forth in Findings 16 through 21.
2. Cause exists to revoke or suspend Respondent's funeral establishment license pursuant to Business and Professions Code section 7707, for gross negligence, as set forth in Findings 3 through 15.
3. Cause exists to revoke or suspend Respondent's funeral establishment license pursuant to Business and Professions Code section 7703, in conjunction with California Code of Regulations, title 16, section 1204, subdivision (b), for failure to ensure compliance with the laws and regulations governing funeral establishments, as set forth in Findings 8 through 21, and 23.
4. Cause exists to revoke or suspend Respondent's funeral establishment license pursuant to Business and Professions Code section 7707, for unprofessional conduct, as set forth in Findings 4, 7 through 21, and 23.
5. Cause exists to order Respondent to pay the costs claimed under Business and Professions Code section 125.3, as set forth in Findings 33, 34 and 35.

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6. Code section 7685 states in pertinent part:

(a) Every funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written or printed list containing, but not necessarily limited to, the price for professional services offered, which may include the funeral director's services, the preparation of the body, the use of facilities, and the use of automotive equipment. All services included in this price or prices shall be enumerated.

[¶] . . . [¶]

(c) The funeral director shall also provide a statement on that list that gives the price range for all caskets offered for sale. . . .

7. Respondent argued that Pitchford was justified in increasing certain charges reflected on the general price list and in adding charges not reflected on the general price list, due to the decedent's size and the disclaimer on the casket price list that prices were subject to change without notice. Respondent is not being disciplined for including a mark up or for changing its prices. It is being disciplined for its failure to include the new prices on its price list. Section 7685, subdivision (a), requires all prices to appear on a written or printed list. A notice on that list indicating that prices are subject to change without notice obviates the purpose of the statute and is insufficient to meet the statute's requirements.

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8. Expert witness testimony is necessary to establish gross negligence in a professional negligence case unless the negligence alleged is obvious to the layman. (*Kelley v. Trunk* (1998) 66 Cal.App.4th 519, 523 [78 Cal.Rptr.2d 122]; *Osborn v. Irwin Memorial Blood Bank* (1992) 5 Cal.App.4th 234, 273 [7 Cal.Rptr.2d 101].) In this case, Complainant did not offer any expert witness testimony to support its allegation of gross negligence. However, she did not need to do so. The gross negligence allegation against Respondent is that Respondent “completely surrendered the direction of decedent Espinoza’s funeral services” to Pitchford, an unlicensed employee who had already suffered the revocation of his funeral licenses and, as a result, a forgery occurred and the decedent’s family was defrauded. Unlike the unproven allegation in Paragraph 12, subparagraph (e), which alleges that Pitchford forged the signature of the decedent’s mother on the Form 5, the gross negligent paragraph (Paragraph 13) alleges only that a forgery occurred. The forgery could have been made only by one of four individuals working at Eternal Rest, and only those individuals had any reason to commit the forgery. It was the responsibility of Respondent, specifically its owner, Doretha Cooper, to properly supervise Pitchford’s activities in connection with Espinoza’s funeral arrangements. The forgery occurred as a result of her failure to meet that responsibility. More was required of Cooper than to simply review documents after services were rendered and sign her name indicating she had performed work she did not perform. Expert witness testimony is unnecessary to prove that the failure to prevent forgery and fraud under these circumstances constitutes gross negligence. As the court in *Jorgensen v. Beach ‘n’ Bay Realty, Inc.* (1981) 125 Cal.App.3d 155, 163, explained:

The correct rule on the necessity of expert testimony has been summarized by Bob Dylan: “You don’t need a weatherman to know which way the wind blows”. The California courts, although in harmony, express the rule somewhat less colorfully and hold expert testimony is not required where a question is “resolvable by common knowledge.” [Citations.]

9. Particularly troubling about this case is the fact that, in 2006 and 2007, temporally close to the events that gave rise to the instant action, similar allegations involving forgery and fraud were made and not contested. Those cases resulted in citations being issued and fines being paid. That pattern of forgery and fraud has continued without any apparent effort on Respondent’s part to correct its practices. Absent any attempts to rectify its wrongful practices, the public safety, welfare and interest cannot be adequately protected should Respondent be permitted to retain its licensure.

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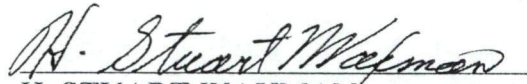


**ORDER**

**WHEREFORE, THE FOLLOWING ORDER is hereby made:**

1. Funeral Establishment License No. FD 1811, issued to Respondent, Eternal Rest Mortuary Directors, Doretha L. Cooper, Owner, is revoked.
2. Respondent shall reimburse the Bureau the sum of \$6,800.84 for its costs of investigation and prosecution. Respondent shall make timely payment as directed by the Bureau pursuant to Business and Professions Code Section 125.3.

DATED: November 17, 2009



H. STUART WAXMAN  
Administrative Law Judge  
Office of Administrative Hearings

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

10 In the Matter of the Accusation Against:

Case No. A1 2007 505

11 ETERNAL REST MORTUARY DIRECTORS,  
DORETHA L. COOPER, OWNER  
12 Doretha L. Cooper, Owner  
2617 West Manchester Blvd.  
13 Inglewood, CA 90305

**ACCUSATION**

14 Funeral Establishment License No. FD 1811,

15 and

16 BERNADETTE C. JACKSON  
20407 Campaign Drive #13B  
17 Carson, CA 90746

18 Funeral Director License No. FDR 1735,

19 Respondents.  
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21 Complainant alleges:

22 PARTIES

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

26 Eternal Rest Mortuary Directors

27 2. On or about March 25, 2004, the Bureau issued Funeral Establishment  
28 License Number FD 1811 to Eternal Rest Mortuary Directors, Doretha L. Cooper, Owner

1 (Respondents). The Funeral Establishment License was in full force and effect at all times  
2 relevant to the charges brought herein and will expire on March 31, 2009, unless renewed.

3 **Bernadette C. Jackson**

4 3. On or about July 14, 1999, the Bureau issued Funeral Director License  
5 Number FDR 1735 to Bernadette C. Jackson (Respondents). The Funeral Director License was  
6 in full force and effect at all times relevant to the charges brought herein and will expire on July  
7 31, 2008, unless renewed.

8 **JURISDICTION**

9 4. This Accusation is brought before the Cemetery and Funeral Bureau,  
10 under the authority of the following laws. All section references are to the Business and  
11 Professions Code unless otherwise indicated.

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

18 6. Section 7692 of the Code, states: "Misrepresentation or fraud in the  
19 conduct of the business or the profession of a funeral director or embalmer constitutes a ground  
20 for disciplinary action."

21 7. Section 7703 of the Code, states: "Violation of any of the provisions of  
22 this chapter or of the rules and regulations adopted pursuant to this chapter constitutes a ground  
23 for disciplinary action."

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

27 9. California Code of Regulations, Title 16, section 1204 states:

28 (b) The designated managing licensed funeral director of a licensed funeral



1 establishment shall be responsible for exercising such direct supervision and control over the  
2 conduct of said funeral establishment as is necessary to ensure full compliance with the Funeral  
3 Directors and Embalmers Law, the provisions of this chapter and the applicable provisions of the  
4 Health and Safety Code. Failure of the designated managing licensed funeral director and/or the  
5 licensed funeral establishment to exercise such supervision or control, or failure of the holder of  
6 the funeral establishment license to make such designation, shall constitute a ground for  
7 disciplinary action.”

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

11 **Cost Recovery**

12 11. Section 125.3, subdivision (a), states, in pertinent part: "Except as  
13 otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before  
14 any board within the department . . . upon request of the entity bringing the proceedings may  
15 request the administrative law judge may direct a licensee found to have committed a violation  
16 or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
17 investigation and enforcement of the case."

18 **FIRST CAUSE FOR DISCIPLINE**

19 (Misrepresentation/Fraud)

20 12. Respondent Eternal Rest Mortuary Directors is subject to disciplinary  
21 action under section 7692 of the Code, for unprofessional conduct, in that Respondent made  
22 material misrepresentations and committed fraud in connection with the funeral arrangements for  
23 decedent Michael Espinoza (Espinoza). The circumstances are as follows:

24 a. On or about October 26, 2007, Respondent charged the family of decedent  
25 Espinoza \$300 for "Other Preparation of Body", services which were stated on the General Price  
26 List (GPL) to only cost \$75. The GPL defines "Other Preparation of Body" as "dressing,  
27 casketing and cosmetizing of deceased". The decedent's body was cremated at his family's  
28 request, so these services should not have been charged at all.







