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

| | |
|---|---|
| In the Matter of the Accusation Against:<br><br>**MICHAEL PATRICK O'CONNOR**<br>**2959 Fulton Avenue**<br>**Sacramento, CA 95821**<br><br>**Funeral Establishment No. FD 1910**<br>**Funeral Director License No. FDR 2563**<br>**Embalmer License No. EMB 7796**<br><br>Respondent. | Case Nos. A1 2011 41<br><br>OAH NO. 2012090560 |

## DECISION AND ORDER

The attached Stipulated Surrender of Licenses and Order is hereby adopted as the Decision of the Director of Consumer Affairs in the above-entitled matter.

This Decision shall become effective on MAY 16, 2013.

IT IS SO ORDERED MAY 16 2013.

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General
STERLING A. SMITH
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*Attorneys for Complainant*

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

| | |
|---|---|
| In the Matter of the Accusation Against:<br><br>**MICHAEL PATRICK O'CONNOR dba**<br><br>**CREMATION SOCIETY OF SACRAMENTO**<br>**2959 Fulton Avenue**<br>**Sacramento, CA 95821**<br>**Funeral Establishment No. FD 1910**<br>**And**<br><br>**MICHAEL O'CONNOR**<br>**22 Constance Drive**<br>**Vallejo, California 94590**<br>**Funeral Director No. FDR-2563**<br>**Embalmer License No. EMB 7796**<br><br>Respondent. | Case No. A1 2011 41<br><br>OAH No. 2012090560<br><br>**STIPULATED SURRENDER OF LICENSE AND ORDER** |

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. Lisa M. Moore (Complainant) is the Bureau Chief of the Cemetery and Funeral Bureau. She brought this action solely in her official capacity and is represented in this matter by

Kamala D. Harris, Attorney General of the State of California, by Sterling A. Smith, Deputy Attorney General.

2. Michael Patrick O'Connor (Respondent) is represented in this proceeding by attorney Adam B. Brown Esq., whose address is 3848 Carson Street, Suite 206, Torrance, CA 90503.

3. On or about August 17, 2006, the Cemetery and Funeral Bureau issued Funeral Establishment License No. FD 1910 to Michael Patrick O'Connor doing business as Cremation Society of Sacramento (Respondent). The Funeral Establishment license was in full force and effect at all times relevant to the charges brought in Accusation No. A1 2011 41 and expired on August 31, 2012.

4. On or about April 12, 2005, the Cemetery and Funeral Bureau (Bureau) issued Funeral Director License No. FDR-2563 to Michael Patrick O'Connor (Respondent). At all relevant times, Respondent Michael Patrick O'Connor was the designated funeral director of Respondent Michael Patrick O'Connor doing business as Cremation Society of Sacramento. The license will expire on April 30, 2013, unless renewed.

5. On or about February 1, 1989, the Cemetery and Funeral Bureau issued Embalmer License No. EMB 7796 to Michael Patrick O'Connor (Respondent). The license expired on February 28, 2013.

JURISDICTION

6. On or about August 8, 2012, Accusation No. A1 2011 41 was filed before the Director of Consumer Affairs (Director), for the Cemetery and Funeral Bureau (Bureau), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 15, 2012. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. A1 2011 41 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. A1 2011 41. Respondent also has carefully read, fully

discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

8. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

10. Respondent understands that the charges and allegations in Accusation No. A1 2011 41, if proven at a hearing, constitute cause for imposing discipline upon his Funeral Establishment License, Funeral Director License, and Embalmer License.

11. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

12. Respondent understands that by signing this stipulation he enables the Director to issue her order accepting the surrender of his Funeral Establishment License without further process.

13. Respondent understands that by signing this stipulation he enables the Director to issue her order accepting the surrender of his Funeral Director License without further process.

14. Respondent understands that by signing this stipulation he enables the Director to issue her order accepting the surrender of his Embalmer License without further process.

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## RESERVATION

15. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Director of Consumer Affairs, Cemetery and Funeral Bureau or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

## CONTINGENCY

16. This stipulation shall be subject to approval by the Director or the Director's designee. Respondent understands and agrees that counsel for Complainant and the staff of the Cemetery and Funeral Bureau may communicate directly with the Director and staff regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall not be disqualified from further action by having considered this matter.

17. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

18. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

19. In consideration of the foregoing admissions and stipulations, the parties agree that the Director may, without further notice or formal proceeding, issue and enter the following Order:

## ORDER

IT IS HEREBY ORDERED that Funeral Establishment No. FD 1910, Funeral Director License No. FDR-2563 and Embalmer License No. EMB 7796, and each of them, issued to Respondent Michael Patrick O'Connor and/or Michael Patrick O'Connor doing business as Cremation Society of Sacramento are surrendered and accepted by the Director of Consumer Affairs.

1. The surrender of Respondent's Funeral Establishment, Funeral Director License and Embalmer License, and the acceptance of the surrendered licenses by the Bureau, shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Cemetery and Funeral Bureau.

2. Respondent shall lose all rights and privileges as the owner and operator of a Funeral Establishment, as a Funeral Director, and Embalmer in California, as of the effective date of the Director's Decision and Order.

3. Respondent shall cause to be delivered to the Bureau his pocket licenses and if issued to him, his wall certificates, on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement regarding any of the licenses surrendered hereunder in the State of California, the Bureau shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of the surrendered licenses, or any of them, in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. A1 2011 41 shall be deemed to be true, correct and admitted by Respondent when the Director determines whether to grant or deny the petition, in whole or in part.

5. Respondent shall not apply for licensure or petition for reinstatement for all or any of the licenses surrendered hereunder for one (1) year from the effective date of the Director's Decision and Order.

6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $8,000.00 prior to issuance of any new or reinstated license.

7. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of any of the licenses surrendered hereunder to any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. A1 2011 41 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Adam B. Brown Esq. I understand the stipulation and the effect it will have on my Funeral Establishment, and Funeral Director License, and Embalmer License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

DATED: 10 MAY 2013

MICHAEL PATRICK O'CONNOR
Respondent

I have read and fully discussed with Respondent Michael Patrick O'Connor the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 5-13-13

ADAM B. BROWN ESQ.
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: 5-13-2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General

STERLING A. SMITH
Deputy Attorney General
*Attorneys for Complainant*

SA2012104680
Stipulation.rtf

**Exhibit A**

**Accusation No. A1 2011 41**

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Supervising Deputy Attorney General
STERLING A. SMITH
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*Attorneys for Complainant*

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

| | |
|---|---|
| In the Matter of the Accusation Against:<br><br>**MICHAEL O'CONNOR**<br>**dba CREMATION SOCIETY OF SACRAMENTO**<br>2959 Fulton Avenue<br>Sacramento, CA 95821<br><br>Funeral Establishment No. FD 1910,<br><br>and<br><br>**MICHAEL O'CONNOR**<br>22 Constance Drive<br>Vallejo, California 945490<br><br>Funeral Director No. FDR-2563<br>Embalmer License No. EMB 7796<br><br>Respondents. | Case No. A1 2011 41<br><br>**ACCUSATION** |

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 (continued...)

2. On or about August 17, 2006, the Cemetery and Funeral Bureau (Bureau) issued Funeral Establishment License No. FD 1910 to Respondent Michael O'Connor doing business as Cremation Society of Sacramento. The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2012, unless renewed.

3. On or about April 12, 2005, the Bureau issued Funeral Director No. FDR-2563 to Respondent Michael O'Connor. The 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.

4. On or about February 1, 1989, the Bureau issued Embalmer License No. EMB 7796 to Respondent Michael O'Connor. The license was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2013, unless renewed.

5. Respondent Michael O'Connor now is, and at all relevant times was, the designated managing licensed funeral director of Respondent Michael O'Connor doing business as Cremation Society of Sacramento.

## JURISDICTION

6. 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.

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.

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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.

8. Section 7690 of the Code states that "the bureau may discipline every accused licensee whose default has been entered or who has been tried and found guilty, after formal hearing, of any act or omission constituting grounds for disciplinary action.

Any of the following penalties may be imposed by the bureau:

(a) Suspension of the disciplinary order.

(b) Reproval, public or private.

(c) Probation.

(d) Suspension of right to practice.

(e) Revocation of right to practice.

(f) Such other penalties as the bureau deems fit.

9. Section 7692 of the Code states that "misrepresentation or fraud in the conduct of the business or profession of a funeral director or embalmer constitutes ground for disciplinary action."

10. Section 7703 of the Code provides that "violation or any of the provisions of this chapter or of the rules and regulations adopted pursuant to this chapter constitutes ground for disciplinary action."

11. Code section 7100 requires that an only an adult, a person over the age of eighteen years, has 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.

12. Section 7707 of the Code provides that "gross negligence, gross incompetence or unprofessional conduct in the practice of funeral directing or embalming constitutes a ground for disciplinary action."

13. Section 7054.6, subdivision (c) of the Code states that that "prior to disposition of cremated remains, 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 registrant shall do all of the following:

(1) Remove the cremated remains from the place of cremation in a durable container.

(2) Keep the cremated remains in a durable container.

(3) Store the cremated remains in a place free from exposure to the elements.

(4) Responsibly maintain the cremated remains.

14. Section 7704 of the Code states that "violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of human remains constitutes a ground for disciplinary action."

15. Code section 7685.2, provides, in pertinent part that:

"(a) No funeral director shall enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until he or she has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, provided that the information is available at the time of the execution of the contract:

(1) The total charge for the funeral director's services and the use or his or her facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery or crematory charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) through (4), inclusive.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains. The bureau shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to,

the names of the persons with the right to control the disposition of the cremated remains and the person who is contracting for the cremation services; the name of the deceased; the name of the funeral establishment in possession of the remains; the name of the crematorium; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated remains. The form shall be signed and dated by the person arranging for the cremation and the funeral director, employee, or agent of the funeral establishment in charge of arranging or prearranging the cremation service.

. . ."

16. Section 7103 of the Health & Safety Code 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."

17. Section 1204, title 16, California Code of Regulations, subdivision (b), provides that "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."

18. Section 1277.5, title 16, California Code of Regulations, provides, in pertinent part, that:

"(a) The statement disclosing whether or not the funeral establishment has any preneed agreement made by or on behalf of the deceased shall be made on the "Disclosure of Preneed Funeral Agreement" form provided by the Bureau (Form 21F1 (10/023)), which is hereby incorporated by reference. The disclosure statement shall be signed and dated by the representative of the funeral establishment and by the survivor or responsible party. A copy of the completed disclosure statement shall be given to the survivor or responsible party, and the original completed disclosure statement, or copy thereof, shall be retained by the funeral establishment for not less than one (1) year after the serviced preneed account has been audited by the Bureau or seven (7) years from the date of the disclosure statement was made, whichever comes first.

(b) The "survivor" is the person with the right to control disposition of the remains under Health and Safety Code Section 7100, or their assignee.

(c) The "responsible party" is the person contracting for funeral goods or services or both funeral good and services for the decedent from the funeral establishment.

. . ."

19. Code section 7103 provides, in pertinent part, "(a) 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."

20. 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."

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

**FUNERAL DIRECTING SERVICES- DECEDENT M.R.**

22. On or about August 28, 2011, decedent M.R. passed away. On or about said date, survivor R.M. made arrangements with Respondents for cremation of the decedent and disposition of her cremated remains. On or about August 28, 2011, R.M. and Respondents signed, among other things, a "Disclosure of Preneed Agreement," and a "Declaration for Disposition of Cremated Remains," stating that cremation would be performed by Crossroads Final Care Crematory and that Respondents were "to dispose [of the cremated remains] however is by law. Family does not want cremated remains."

23. On or about August 29, 2011, R.M. signed a "Statement of Funeral Goods and Services," describing the goods and services purchased by R.M. from Respondents, including

preparation and issuance of the decedent's Certificate of Death, certified copies of the Certificate of Death, and air scattering of the decedent's cremated remains, for the total sum of $955.00. On or about September 1, 2011, Respondents' "Bill for Services" for $955.00 was paid in full.

24. Respondents prepared a Certificate of Death for the decedent, which was issued on or about September 2, 2011. The Certificate of Death misspelled the name of the decedent. On or about December 28, 2011, Respondents mailed certified copies of the Certificate of Death to R.M.

25. During its investigation, Respondents represented to Bureau representatives that on or about December 23-24, 2011, the decedent's cremated remains were scattered at sea rather than by air because Respondents' pilot was not available. When Bureau representatives asked further questions regarding the alleged scattering of the decedent's cremated remains, Respondents refused to provide further information.

**FIRST CAUSE FOR DISCIPLINE**

**(For Unprofessional Conduct in Practice of Funeral Directing)**

26. Complainant realleges Paragraphs 22-25 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 because they violated Code Section 7707, by performing acts or omissions constituting unprofessional conduct in the practice of funeral directing, including those described below.

(a) Failed to timely provide certified copies of the decedent's Certificate of Death to survivor R.M.

(b) Prepared, processed and provided certified copies of the decedent's Certificate of Death to R.M. and others which incorrectly spelled the decedent's name. When notified of the error, Respondents did not correct the Certificate of Death.

(c) By their Bill for Services for M.R., Respondents charged $250.00 for "air scattering of cremated remains" when neither the Declaration for Disposition of Cremated Remains nor Respondents' General Price List disclose any such service or charge.

(d) Failed to cooperate in the Bureau investigation by providing false or misleading information to, and refusing to answer questions by, the Bureau investigator.

(e) Failed to correctly complete the "Disclosure of Preneed Agreement.

(f) Overcharged R.M. for the sales tax properly due on the sale of a Cardboard Alternative Container.

## SECOND CAUSE FOR DISCIPLINE

**(For Gross Incompetence in the Practice of Funeral Directing)**

27. Complainant realleges Paragraphs 22-25 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because they violated Code sections 7703 and 7707, by committing acts or omissions constituting gross incompetence in the practice of funeral directing. Respondents did not complete the "Disclosure of Preneed Agreement," as required by section 1277.5, title 16, California Code of Regulations, or complete the "Declaration of Disposition of Cremated Remains," so that it specifically described the manner of disposition of M.R.'s cremated remains.

## THIRD CAUSE FOR DISCIPLINE

**(Gross Negligence in the Practice of Funeral Directing)**

28. Complainant realleges Paragraphs 22-25 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because they violated Code section 7707, by committing acts and omissions in the practice of funeral directing that constitute gross negligence, including those set forth below.

a. Respondents' "Statement of Funeral Goods and Services," falsely states that "merchandise is subject to 8.75% Sales Tax."

b. Respondents' Bill for Services for M.R. falsely states that the sales tax due for sale of a "Cardboard Alternative Container (Cardboard)," for $45.00 is $5.00.

c. Respondents' Bill for Services for M.R. falsely states that Respondents air-scattered the decedent's cremated remains, assuming that Respondents scattered the decedent's remains at all.

(d) Respondents refused to provide information to Bureau investigators pertaining to the alleged scattering of the decedent's cremated remains.

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## FUNERAL DIRECTING SERVICES- DECEDENT H.L.

29. On or about October 16, 2011, decedent H. L. passed away, survived by J.L., her son. On or about October 17, 2011, J.L. made arrangements with Respondents for cremation of the decedent and disposition of her cremated remains by interment at Golden Gate National Cemetery. At that time, Respondents agreed that cremation and interment would be completed within approximately one week. Respondents caused JDK Transport to move the decedent's body from Living Health and Care Center to Crossroads Family Final Care for cremation. Respondents informed JDK Transport personnel that the decedent died on October 16, 2011.

30. On or about October 17, 2011, J.L. and Respondents signed, among other things, an "Order to Cremate," to Crossroads Family Final Care correctly stating that the decedent died on October 16, 2011, and a "Statement of Funeral Goods and Services," describing the goods and services purchased by J.L. from Respondents.

31. Respondents prepared a "Certificate of Death," incorrectly stating that the decedent died on October 10, 2011, the decedent's father's name was "Carol," "Donald I. Guttman" was certifying physician and that the physician's address was 6601 Dwane Ave., San Diego, California.

32. From time to time after October 17, 2011, Respondents notified J.L. that the decedent would be interred at Golden Gate National Cemetery on different dates ranging from November 1, 2011, to November 14, 2011, all of them later than when Respondents agreed that interment would be completed. When questioned about the delay, Respondents informed J.L. that the delays were attributable to Veterans Administration, which administered Golden Gate National Cemetery, and that once scheduled with Veterans Administration, dates for interment could not be changed.

33. On or about October 21, 2011, Respondents provided Crossroads Crematory with an "Application and Permit for Disposition of Human Remains," incorrectly stating that the decedent died on October 10, 2011.

34. Some time shortly before on or about October 28, 2011, J.L. asked Respondents whether or not he could transport the decedent's cremated remains from Crossroads Crematory to

Golden Gate National Cemetery for interment, Respondents informed J.L. that he could not do so, and that only Respondents could do so.

35. J.L. transported the decedent's cremated remains from Crossroads Crematory to Golden Gate National Cemetery where, at J.L.'s request, the decedent was interred on or about October 28, 2011. After interment, Golden Gate National Cemetery discovered that the "Application and Permit for Disposition of Human Remains," it received from Crossroads Crematory incorrectly stated that the decedent died on October 10, 2011. When Golden Gate National Cemetery requested that Respondents to provide an "Application and Permit for Disposition of Human Remains," correctly stating the decedent's date of death, Respondents refused to do so.

## FOURTH CAUSE FOR DISCIPLINE

**(For Unprofessional Conduct in the Practice of Funeral Directing)**

36. Complainant realleges Paragraphs 29-35 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because they violated Code section 7707, by committing acts or omissions constituting unprofessional conduct in the practice of funeral directing, including those described below.

(a) Respondents promised J.L. that the decedent would be cremated and her remains interred at Golden Gate National Cemetery within one week of October 16, 2011, without first contacting a crematorium or Golden Gate National Cemetery regarding such arrangements.

(b) Respondents falsely informed J.L. that interment of the decedent was delayed because Golden Gate National Cemetery was administered by the Veterans Administration, a governmental agency.

(c) Respondents falsely informed J.L. that once scheduled with Golden Gate National Cemetery, dates for interment could not be changed.

(d) When J.L. informed Respondents that he wanted to personally transport the decedent's cremated remains from the crematorium to Golden Gate National Cemetery, Respondents falsely informed him that only Respondents, and not J.L., could do so.

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## FIFTH CAUSE FOR DISCIPLINE

**(For Gross Negligence in the Practice of Funeral Directing)**

37. Complainant realleges Paragraphs 29-35 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because they violated Code section 7707, by committing acts and omissions constituting gross negligence in the practice of funeral directing, including those described below.

(a) Prepared a Death Certificate for the decedent stating incorrect information, including the decedent's date of death, the spelling of the name of the decedent's father, the spelling of the name of the certifying physician and the physician's business address.

(b) When informed on more than one occasion of the incorrect information set forth in the Death Certificate, Respondents unreasonably delayed correction of the errors.

(c) When Respondents submitted a disposition permit to Crossroads Family Final Care and to J.L., Respondents knew that it incorrectly stated the date of the decedent's death.

(d) Respondents refused to provide a corrected disposition permit to Crossroads Family Final Care or Golden Gate National Cemetery.

(e) After Respondents discovered that the date of the decedent's death stated in the Certificate of Death was incorrect, Respondents attempted to obfuscate his error by altering the "Order to Cremate," signed by J.L., without his knowledge or consent, to incorrectly state that the decedent died on October 10, 2011.

(f) Respondents provided false documents to the Bureau inspector, including the "Order to Cremate" that Respondents altered.

(g) In an attempt to justify their unreasonable delay in correcting errors in the Certificate of Death, Respondents falsely represented to the Bureau inspector that they asked Dr. Gutman's office to return the completed amendment of the Death Certificate to the health department when, in fact, Respondents asked that it be returned by Dr. Gutman to Respondents.

~~(h) In an attempt to justify their unreasonable delay in correcting errors in the Certificate of Death, Respondents falsely represented to the Bureau inspector that they received the~~

completed amendment to the Death Certificate from the health department when, in fact, Respondents received it from Dr. Gutman's office directly.

(i) Respondents' "Statement of Funeral Goods and Services," falsely states that "merchandise is subject to 8.75% Sales Tax."

(j) Respondents' Bill for Services falsely states that the sales tax for the sale of an "Alternative Container (Cardboard)," for $45.00 is $5.00.

## SIXTH CAUSE FOR DISCIPLINE

**(For Misrepresentation in the Practice of Funeral Directing)**

38. Complainant realleges Paragraphs 29-35 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because they violated Code section 7692, by committing acts of misrepresentation in the practice of funeral directing, including those described below.

(a) Respondents falsely informed J.L. that interment of the decedent was delayed because Golden Gate National Cemetery was administered by the Veterans Administration, a governmental agency.

(b) Respondents falsely informed J.L. that once scheduled with Golden Gate National Cemetery, dates for interment could not be changed.

(c) After Respondents discovered that the date of the decedent's death stated in the Certificate of Death was incorrect, Respondents attempted to obfuscate his error by altering the "Order to Cremate," signed by J.L., without his knowledge or consent, to incorrectly state that the decedent died on October 10, 2011.

(d) Respondents provided false documents to the Bureau inspector, including the "Order to Cremate," that Respondents had altered.

(e) In an attempt to justify their unreasonable delay in correcting errors in the Certificate of Death, Respondents falsely represented to the Bureau inspector that they asked Dr. Gutman's office to return the completed amendment of the Death Certificate to the health department when, in fact, Respondents asked that it be returned by Dr. Gutman to Respondents.

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(f) In an attempt to justify their unreasonable delay in correcting errors in the Certificate of Death, Respondents falsely represented to the Bureau inspector that they received the completed amendment to the Death Certificate from the health department when, in fact, Respondents received it from Dr. Gutman's office directly.

(g) Respondents' "Statement of Funeral Goods and Services," falsely states that "merchandise is subject to 8.75% Sales Tax."

(h) Respondents' Bill for Services falsely states that the sales tax for the sale of an "Alternative Container (Cardboard)," for $45.00 is $5.00.

**FUNERAL DIRECTING SERVICE- DECEDENT R.A.**

39. Decedent R.A. passed away in Sacramento on or about January 17, 2011, survived by his daughter N.S., then a Hawaii resident. N.S. made arrangements with Respondents by telephone for cremation of the decedent; informing Respondents that it was essential that she take the decedent's cremated remains with her when she returned to her Hawaii residence on January 31, 2011. Respondents agreed to do so. On January 20, 2011, N.S. met with Respondents in Sacramento and signed documents for cremation of the decedent.

40. On January 20, 2011, N.S. signed an "Authorization for Disposition With or Without Embalming," wherein Respondents represented that the decedent's remains would be stored at Sierra View Crematory pending cremation.

41. On January 18, 2011, the Sacramento County Coroner notified Respondents that the decedent's body and Death Certificate were available for pick up. On January 25, 2011, Respondents caused JDK Transport to transport the decedent's body from the Sacramento County Coroner to Kraft Funeral Directors for storage.

42. On January 27, 2011, Respondents caused JDK Transport to transport the decedent's body from Kraft Funeral Directors to Camellia Memorial Lawn for cremation.

43. On January 31, 2011, Respondents provided an "Application and Permit for Disposition of Human Remains," to Camellia Memorial Lawn, where the decedent was cremated on January 31, 2011.

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44. On or about January 30, 2011, N.S. inquired of Respondents about the status of the decedent's cremation because she had to take the cremated remains with her when she returned to Hawaii on January 31, 2011. Respondents informed her cremation was delayed because the crematory was having problems and had broken down. N.S. was unable to delay her departure as Respondents requested, and returned home to Hawaii on January 31, 2011.

45. On or about February 1, 2011, Respondents picked up the decedent's cremated remains from Camellia Memorial Lawn.

46. On or about February 14, 2011, Respondents shipped cremated remains for the person whom he mistakenly believed was decedent R.A. to N.S. Instead, Respondents shipped the cremated remains of decedent L.B. to N.S. in Hawaii, and shipped the cremated remains of the decedent R.A. to a D.H. in Southern California.

47. When N.S. discovered that Respondents shipped the cremated remains of decedent L.B. to her instead of the decedent R.A., she asked Respondents what to do. Respondents told N.S. to ship L.B.'s cremated remains back to them, without assisting or even offering to assist N.S. so that L.B.'s cremated remains could be lawfully shipped from Hawaii to Respondents.

48. On or about September 22, 2011, Respondents agreed to refund the funeral directing costs and make travel expense reimbursement, totaling $1,814.81, to N.S. Respondents agreed to pay N.S. in six monthly installments of $302.46, commencing on September 23, 2011. Respondents did not pay any money to N.S. as agreed.

## SEVENTH CAUSE FOR DISCIPLINE

**(Gross Negligence in the Practice of Funeral Directing)**

49. Complainant realleges Paragraphs 39-48 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because they violated Code section 7707, for their commission of acts or omissions constituting gross negligence in performing the practice of funeral directing, including those described below.

(a) Failed to timely cremate the decedent R.A.

(b) Failed to timely cause the decedent's body to be removed from the Sacramento County Coroner's custody.

(c) Failed to timely cause the decedent's body to be removed from the custody of Kraft Funeral Home to Camellia Memorial Lawn for cremation.

(d) Failed to timely provide an "Application and Permit for Disposition of Human Remains," to Camellia Crematory authorizing the decedent's cremation.

(e) Delivered the decedent's cremated remains to D.H. instead of N.S.

(f) Delivered the cremated remains of decedent L.B. to N.S. instead of D.H.

(g) Failed to assist N.S. in taking the steps needed to cause the cremated remains of decedent L.B. to be lawfully transported from Hawaii to Respondents in California.

## EIGHTH CAUSE FOR DISCIPLINE

**(Misrepresentation in the Practice of Funeral Directing)**

50. Complainant realleges Paragraphs 39-48 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because they violated Code section 7692, by making misrepresentations in the practice of funeral directing. Respondents falsely represented to N.S. that:

(a) The decedent R.A.'s cremation was delayed because the crematorium had problems and had broken down. The true facts were the decedent's cremation was delayed because Respondents failed to timely cause the decedent's remains to be picked up from the Sacramento County Coroner, failed to timely transport the decedent's remains from storage at Kraft Funeral Home to Camellia Memorial Lawn for cremation, and failed to timely provide Camellia Memorial Lawn with a permit authorizing cremation of the decedent.

(b) The decedent's remains were stored at Sierra View Crematory pending cremation. In fact, the decedent's remains were not stored at Sierra View Crematory at any time.

## NINTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct in the Practice of Funeral Directing)**

51. Complainant realleges Paragraphs 39-48 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because they violated Code section 7707, by committing acts or omissions constituting unprofessional conduct in the practice of funeral

directing. Respondents have not made reimbursement of costs to N.S. as agreed and alleged in Paragraph 48 above.

**FUNERAL DIRECTING SERVICES RENDERED –DECEDENT D.A.**

52. On or about February 21, 2012, D. and D.A. signed a "Statement of Funeral Goods and Services," whereby Respondents agreed to render funeral directing services with respect to decedent D.A., including cremation of his remains, for the total sum of $1,132.50. On or about February 23, 2012, Respondents were fully paid $1,132.50, by debit from the Andersons' bank account.

53. On or about March 8, 2012, Respondents collected an additional $370.00, by debiting the Andersons' bank account for an alleged "oversize removal charge," and an "oversize cremation charge," with respect to the decedent D.A., who had been a large man weighing 275 pounds or more.

**TENTH CAUSE FOR DISCIPLINE**

**(Statutory Violations)**

54. Complainant realleges Paragraphs 52 and 53 above. Respondents are subject to disciplinary action under Code sections 7686, 7690 and 7703, because they violated Code section 7685.2, subdivision (a), by collecting charges for alleged funeral directing goods and services, including charges for alleged "oversize removal charge" and an "oversize cremation charge" not set forth in the "Statement of Funeral Goods and Services" or otherwise disclosed in writing to the Andersons by Respondents.

**FUNERAL DIRECTING SERVICES FOR DECEDENT E.P.**

55. On January 2, 2011, the decedent E.P. passed away, survived by his common law spouse K.B. and their two daughters, one of whom is K.P. On or about that date, K.B. made arrangements with Respondents for funeral directing services, including cremation of the decedent. On or about January 2, 2011, Respondents caused JDK Transport to pick up the decedent's remains from the convalescent hospital where he died and transport them to Sierra View Crematory/NOR-CAL (Sierra View).

56. On or about January 3, 2011, K.B. and K.P met with Respondents. Respondents agreed to perform funeral directing services, including cremation of the decedent and shipment of his cremated remains to South Carolina by January 11, 2011, before the decedent's funeral service there on January 12, 2011. Although Respondents knew that she was a minor, Respondents insisted that K.P sign, among other things, an "Authority to Cremate," "Declaration for Disposition of Cremated Remains", a "Statement of Funeral Goods and Services," and Respondents' "Authorization for Disposition With or Without Embalming." Respondents represented to K.B. and K.P. in writing that pending funeral services, the decedent's remains would be stored at Lind Brothers.

57. On January 12, 2011, K.B. and more than one hundred guests assembled in South Carolina for the decedent's funeral service. When the decedent's cremated remains did not arrive, K.B. telephoned Respondents. Respondents informed K.B. that they had already shipped the decedent's cremated remains to South Carolina as directed, and provided K.B. with a tracking number of the alleged shipment.

58. On January 12, 2011, K.B. discovered that the tracking number given to her by Respondents did not exist. When she telephoned Respondents again regarding the tracking number for said shipment, Respondents provided K.B. with the same non-existent tracking number.

59. On January 13, 2011, K.B. met with Respondents and asked questions about why the decedent's remains had not been received before the funeral services in South Carolina. Respondents told K.B. that Respondents had mistakenly shipped a different decedent, having the same name as the decedent E.P, to North Carolina. At that time, K.B. observed the keepsake urn that she purchased from Respondents for storage of the decedent's cremated remains sitting upon Respondents' desk.

60. Some time before January 18, 2011, Lind Brothers informed K.B. that Lind Brothers had at no time received custody of decedent E.P.'s remains and that Lind Brothers had not done business with Respondents since in or about October 2010. Shortly thereafter, Sierra View informed K.B. that Sierra View received the decedent's remains on January 2, 2011, still had

custody of them, and that the decedent had not been cremated because Respondents had not provided a burial permit to Sierra View authorizing the cremation.

61. On or about January 17, 2011, Respondents signed the "Authority to Cremate," that K.P. had signed on January 1, 2011. On or about January 18, 2011, Respondents provided a burial permit to Sierra View authorizing the decedent's cremation. On January 18, 2011, Sierra View cremated the decedent.

## ELEVENTH CAUSE FOR DISCIPLINE

**(Gross Negligence in the Practice of Funeral Directing)**

62. Complainant realleges Paragraphs 55-61 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because Respondents violated Code section 7707, by committing acts or omissions constituting gross negligence in the practice of funeral directing, including those described below.

(a) Requiring that K.P. sign the "Authority to Cremate." and other documents pertaining to funeral directing services to be provided by Respondents when Respondents knew that K.P. was a minor.

(b) Failing to cause the decedent to be cremated in a timely manner or as Respondents agreed to do.

(c) Failing to cause the decedent's cremated remains to be shipped to South Carolina in a timely manner or as Respondents agreed to do.

(d) Failing to timely provide Sierra View with a permit authorizing cremation of the decedent.

## TWELFTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct in the Practice of Funeral Directing)**

63. Complainant realleges Paragraphs 55-61 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because they violated Code section 7707 by committing acts or omissions constituting unprofessional conduct in the practice of funeral directing, including those described below.

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(a) Falsely represented to K.B. that the decedent was cremated before January 12, 2011.

(b) Falsely represented to K.B. that Respondents had shipped the decedent's cremated remains to South Carolina before January 12, 2011.

(c) Provided a false United Parcel Service Tracking Number to K.B. for Respondents' alleged shipment of the decedent's cremated remains to South Carolina.

## THIRTEENTH CAUSE FOR DISCIPLINE

### (Misrepresentation in the Practice of Funeral Directing)

63. Complainant realleges Paragraphs 55-61 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because they violated Code section 7692, by making misrepresentations in the practice of funeral directing, including those alleged below.

(a) Falsely representing to K.B. that the decedent R.A. was cremated some time before January 12, 2011.

(b) Falsely representing to K.B. that Respondents had shipped the decedent's cremated remains to South Carolina some time before January 12, 2011.

(c) Providing a false UPS Tracking Number to K.B. for Respondents alleged shipment of the decedent's cremated remains to South Carolina.

(d) Falsely informing to K.B. on January 13, 2011, that Respondents had mistakenly shipped the cremated remains of another decedent also named E.P to North Carolina.

(e) Falsely representing to K.B. and K.P that the decedent R.A. would be stored at Lind Brothers pending cremation.

## FOURTEENTH CAUSE FOR DISCIPLINE

### (Violation of Relevant Statutes or Regulations)

64. Complainant realleges Paragraphs 55-61. Respondents are subject to disciplinary action under Code section 7103, because they violated Code section 7100, by accepting the signature of K.P. upon Respondents' "Authorization for Disposition With or Without Embalming," and "Order to Cremate," among other documents, with respect to the decedent E.P. At all relevant times, K.P. was a minor under the age of eighteen years, and Respondents knew that K.P. was a minor under the age of eighteen years.

## FUNERAL DIRECTING SERVICES-VARIOUS DECEDENTS

65. In 2011, Respondents served as funeral directors with respect to decedents W.H, P.A. and R.A, including cremation services. During the Bureau's investigation, acts and omissions by Respondents in rendering funeral directing services were discovered.

## FIFTHTEENTH CAUSE FOR DISCIPLINE

**(Gross Negligence in the Practice of Funeral Directing)**

66. Respondents are subject to disciplinary action under Code sections 7686 and 7690, because they violated Code section 7707, by committing acts or omissions that constitute gross negligence in the practice of funeral directing, including those described below.

(a) Failed to label, maintain or reasonably store the cremated remains of decedents, including decedents W.H., P.E and R.E, at Respondents' business premises.

(b) During the Bureau investigation, Respondents stated that they did not have custody of cremated remains of decedents R.E. and W.H. when, in fact, Respondents did have custody of their cremated remains.

(c) Stored and maintained cremated remains of decedents in un-marked and un-tagged urns, cardboard boxes or plastic bags strewn about Respondents' store rooms in a haphazard fashion among piles of waste, debris and refuse.

(d) Stored and maintained cremated remains of decedents in such a way that cremated remains became contaminated by foreign material, and cremated remains were spilling out of the plastic bags in which they were contained.

(e) Failed to provide all of the cremated remains of decedent W.H. to L.W. and C.W., as directed by L.W. and C.W., the persons having legal control over the disposition of the remains of decedent W.H.

(f) Failed to cause the cremated remains of decedents P.E. and R.E., husband and wife, to be scattered at sea within a reasonable time or at all, as Respondents agreed to do and as instructed by R.A.L., the person having the right to control disposition of the remains of said decedents.

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## SIXTEENTH CAUSE FOR DISCIPLINE

**(Failure to Perform Statutory Duties Re Cremated Remains of Decedents)**

67. Complainant realleges Paragraphs 65 and 66 above. Respondents are subject to disciplinary action under Code sections 7686, 7690, 7703 and 7704 because they violated Health & Safety Code section 7054.6, subdivision (c), by failing to responsibly maintain cremated remains in the following respects and instances, among others:

(a) Failed to label, maintain or store the cremated remains of decedents at Respondents' business premises, including decedents W.H. P.E. and R.E;

(b) During the Bureau investigation, Respondents stated that they did not have custody of cremated remains of decedents R.E. and W.H. when, in fact, Respondents had custody of their cremated remains;

(c) Stored and maintained cremated remains of decedents in un-marked and un-tagged urns, cardboard boxes or plastic bags strewn about in Respondents' store rooms in a haphazard fashion among piles of waste, debris and refuse;

(d) Stored and maintained cremated remains in such a way that they became contaminated with foreign material, and cremated remains were spilling out of plastic bags containing the cremated remains.

## SEVENTEENTH CAUSE FOR DISCIPLINE

**(Failure to Perform Duty to Inter Decedents)**

68. Complaint realleges Paragraphs 65 and 66 above. Respondents are subject to disciplinary action under Code sections 7686, 7690, 7703 and 7704, because they committed acts or omissions in violation of Code Section 7054.6, subdivision (c), in that in or about February 2009, Respondents agreed to inter the cremated remains of decedents R.E. and P.E. by scattering them by air over the ocean. As of in or about December 2011, Respondents had not interred the cremated remains of said decedents, and their cremated remains remained in Respondents' custody stored in rooms cluttered from floor to nearly the ceiling with garbage, articles of personal property, waste, trash, papers and other items.

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## FUNERAL DIRECTING SERVICES-DECEDENT C.B.

69. On or about March 18, 2012, decedent C.B. passed away survived by spouse D.B. and M.W., D.B.'s daughter. On or about March 19, 2012, D.B. and M.W signed a "Statement of Funeral Goods and Services" whereby Respondents agreed to provide funeral directing services and related goods with respect to the decedent. Respondents agreed to cause the decedent's remains to be cremated and provide six (6) certified copies of the decedent's Certificate of Death to D.B. and M.W.

70. The decedent was cremated and shortly after on or about March 23, 2012, certified copies of his Certificate of Death were available at the Sacramento Health Department. Respondents obtained one (1) certified copy of the decedent's Certificate of Death in March 2012, and shortly thereafter, provided it to D.B. and M.W.

71. On or about April 10, 2012, Respondents submitted their "Application for Authorized Certified Copy of a Death Record" to the Sacramento Health Department, requesting additional certified copies of the decedent's Certificate of Death. On or about April 13, 2012, the additional certified copies of the Certificate of Death were mailed to Respondents by Sacramento Health Department.

72. Commencing in or about April 2012, M.W. repeatedly contacted Respondents to obtain the additional certified copies of the decedent's Certificate of Death so that D.B. could go forward with matters arising from the passing of decedent C.B.

73. Shortly before on or about May 30, 2012, M.W. informed Respondents that she would make a complaint to the Bureau due to Respondents' failure to provide D.B. with the additional certified copies of the decedent's Certificate of Death. On or about May 30, 2012, Respondents provided D.B. with additional certified copies of the decedent's Certificate of Death.

## EIGHTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct in the Practice of Funeral Directing)

74. Complainant realleges Paragraphs 69-73 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 because they committed acts or omissions

constituting unprofessional conduct in practice of funeral directing in violation of Code section 7707, including those alleged below.

(a) Respondents did not provide D.B. and M.W. with all of the certified copies of the decedent's Death Certificate they purchased from Respondents within a reasonable time after the decedent's cremation, and not until on or about May 30, 2012.

(b) Respondents did not order all of the certified copies of the Death Certificate purchased by D.B. and M.W. until on or about April 10, 2012, when, in fact, they were available to Respondents by on or about March 23, 2012.

(c) Although Respondents possessed all certified copies of the decedent's Death Certificate purchased by D.B. and M.W by on or about April 14, 2012, and notwithstanding M.W.'s repeated requests for them, Respondents did not provide them to D.B. and M.W. until on or about May 30, 2012.

(d) Respondents provided the certified copies of the Death Certificate to D.B. and M.W. on or about May 30, 2012, after M.W. informed them that she would make a complaint to the Bureau against Respondents.

(e) Respondents falsely represented to the Bureau investigator that delay in providing all of the certified copies of the decedent's Death Certificate to D.B. and M.W. was due to "an audit" of the decedent's file by the Sacramento Health Department or other public entity. The true facts were that at all relevant times (a) there was no "audit" of the decedent's file that delayed Respondents in obtaining certified copies of the decedent's Death Certificate, (b) certified copies of the decedent's Death Certificate were obtainable to Respondents by on or about March 23, 2012, and (c) by on or about April 14, 2012, Respondents possessed all certified copies purchased by D.B. and M.W. from Respondents.

(f) Respondents falsely represented to the Bureau investigator that they ordered all certified copies of the decedent's Death Certificate purchased by D.B. and M.W on the day that the "audit" of the decedent's file terminated, and mailed them to D.B. and M.W. on the following day. The true facts were by on or about April 14, 2012, Respondents possessed all certified copies

of the decedent's Death Certificate purchased by D.B. and M.W., and did not provide them to D.B. and M.W. until on or about May 30, 2012.

(g) Assuming that there was an "audit" of the decedent's file by the Sacramento Health Department or other public entity (and there was not), Respondents took no steps to ascertain the nature of or reason(s) for the alleged audit.

**NINETEENTH CAUSE FOR DISCIPLINE**

(For Misrepresentation in the Practice of Funeral Directing)

75. Complainant realleges Paragraphs 69-73 above. Respondents are subject to disciplinary action under Code sections 7686 and 7690 because they violated Code section 7692 by making misrepresentations in the practice of funeral directing, including those alleged below.

(a) Respondents falsely represented to the Bureau investigator that delay in providing all of the certified copies of the decedent's Death Certificate to D.B. and M.W. was due to "an audit" of the decedent's file by the Sacramento Health Department or other public entity. The true facts were that at all relevant times (a) there was no "audit" of the decedent's file that delayed Respondents in obtaining certified copies of the decedent's Death Certificate, (b) certified copies of the decedent's Death Certificate were obtainable to Respondents by on or about March 23, 2012, and (c) by on or about April 14, 2012, Respondents possessed all certified copies purchased by D.B. and M.W. from Respondents.

(b) Respondents falsely represented to the Bureau investigator that they ordered all certified copies of the decedent's Death Certificate purchased by D.B. and M.W on the day that the "audit" of the decedent's file terminated, and mailed them to D.B. and M.W. on the following day. The true facts were by on or about April 14, 2012, Respondents possessed all certified copies of the decedent's Death Certificate purchased by D.B. and M.W., and did not provide them to D.B. and M.W. until on or about May 30, 2012.

**TWENTIETH CAUSE FOR DISCIPLINE**

**(For Discipline Against Respondent Michael O'Connor)**

76. Complainant realleges Paragraphs 1 through 75 above. Respondent Michael O'Connor is subject to discipline under Code sections 7686 and 7690 because he violated section

1204, title 16, California Code of Regulations. As the designated managing licensed funeral director of Respondent Cremation Society of Sacramento at all relevant times, Respondent Michael O'Connor is subject to discipline for the acts, omissions, unprofessional conduct, violations and other wrongful conduct alleged herein, whether or not personally performed by Respondent Michael O'Connor.

## 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 Number FD 1910, issued to Respondent Michael O'Connor doing business as Cremation Society of Sacramento;

2. Revoking or suspending Funeral Director License No. FDR-2563 and Embalmer License No. EMB 7796 issued to Respondent Michael O'Connor;

3. Ordering Respondents Cremation Society of Sacramento and Michael O'Connor 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: August 8, 2012

Lisa M. Moore

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

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