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

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| In the Matter of the Accusation Against:<br><br>**SUTTER STREET MEMORIAL CHAPEL, INC.**<br>**520 N. SUTTER STREET**<br>**STOCKTON, CA 95202**<br>**FRANK BORGES, PRES.**<br>**MICHAEL HERRING, VP., MANAGER**<br>**Funeral Establishment License No. FD 2006**<br><br>**MICHAEL CHARLES HERRING**<br>**299 S. Bern Avenue**<br>**Stockton, CA 95215**<br>**Funeral Director License No. FDR 2266**<br><br>Respondents. | Case No. A1 2013 270<br><br>**STIPULATED SURRENDER OF LICENSE AND ORDER** |

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings 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 Elena L. Almanzo, Deputy Attorney General.

2. Sutter Street Memorial Chapel, Michael Charles Herring (Respondent) is representing itself in this proceeding and has chosen not to exercise its right to be represented by counsel.

3. On or about March 20, 2009, the Cemetery and Funeral Bureau issued Funeral Establishment License No. FD 2006 to Sutter Street Memorial Chapel (Respondent). The Funeral Establishment License expired on July 10, 2013, has not been renewed, and was cancelled on or about November 14, 2013.

4. On or about May 15, 2002, the Cemetery and Funeral Bureau issued Funeral Director License No. FDR 2266 to Michael Charles Herring (Respondent). The Funeral Director License was in full force and effect at all times relevant to the charges brought in Accusation No. A1 2013 270 and expired on May 31, 2014, and has not been renewed.

## JURISDICTION

5. Accusation No. A1 2013 270 was filed before the Director of Consumer Affairs (Director), for the Cemetery and Funeral Bureau (Bureau), and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on May 2, 2014. Respondents timely filed their Notice of Defense contesting the Accusation. A copy of Accusation No. A1 2013 270 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

6. Respondents have carefully read, and understands the charges and allegations in Accusation No. A1 2013 270. Respondents also have carefully read, and understands the effects of this Stipulated Surrender of License and Order.

7. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; their right to be represented by counsel, at their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their 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.

8. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

CULPABILITY

9. Respondents understand and agree that the charges and allegations in Accusation No. A1 2013 270, if proven at a hearing, constitute cause for imposing discipline upon their Funeral Establishment License as well as for their Funeral Director License.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondents hereby agree that cause exists for discipline and hereby surrenders their Funeral Establishment License No. FD 2006 and Funeral Director License No. FDR 2266 for the Bureau's formal acceptance.

11. Respondents further agree that in any future disciplinary proceeding, or any other proceeding before the Bureau, all allegations set forth in Accusation No. A1 2013 270 shall be deemed admitted.

12. Respondents understand that by signing this stipulation they enables the Director to issue her order accepting the surrender of their Funeral Establishment License and Funeral Director License without further process.

CONTINGENCY

13. 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. By signing the stipulation, Respondent understands and agrees that they may not withdraw its 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.

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

15. 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.

16. 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 License No. FD 2006, and Funeral Director License No. FDR 2266 issued to Respondent Sutter Street Memorial Chapel, and Michael Charles Herring, are surrendered and accepted by the Director of Consumer Affairs.

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

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

3. Respondents shall cause to be delivered to the Bureau their original wall licenses and all renewal licenses on or before the effective date of the Decision and Order.

4. If they ever apply for licensure or petition for reinstatement in the State of California, the Bureau shall treat it as a new application for licensure. Respondents must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is

filed, and all of the charges and allegations contained in Accusation No. A1 2013 270 shall be deemed to be true, correct and admitted by Respondents when the Director determines whether to grant or deny the application or petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $4, 097.50 prior to issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Funeral Establishment License, and Funeral Director 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: 06/01/2015

SUTTER STREET MEMORIAL CHAPEL
and MICHAEL CHARLES HERRING
Respondents

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

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| In the Matter of the Accusation Against:<br><br>**SUTTER STREET MEMORIAL CHAPEL, INC.**<br>520 N. Sutter Street<br>Stockton, CA 95202<br>**FRANK BORGES, PRES.**<br>**MICHAEL HERRING, VP., MANAGER**<br>Funeral Establishment License No. FD 2006<br><br>**MICHAEL CHARLES HERRING**<br>299 S. Bern Avenue<br>Stockton, CA 95215<br>Funeral Director License No. FDR 2266<br><br>Respondents. | Case No. A1 2013 270 |

**DECISION AND ORDER**

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

This Decision shall become effective July 20, 2015.

IT IS SO ORDERED July 8, 2015.

Doreathea Johnson
DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

ENDORSEMENT

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

Dated: 6/8/15

Respectfully submitted,

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

ELENA L. ALMANZO
Deputy Attorney General
*Attorneys for Complainant*

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