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

In the Matter of the Accusation Against: **ROYAL MEMORIES FUNERAL AND CREMATION SERVICES, INC.** **Harold D. Cole, President/Manager** **175 North Redwood Drive, Suite 135** **San Rafael, CA 94903** **Funeral Establishment License No. FD 2078** **And** **HAROLD DWIGHT COLE** **1922 13th Avenue** **Oakland CA 94606** **Funeral Director License No. FDR 2589** Respondents.	Case No. A1 2013 65 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

[1] Effective January 1, 1996, the Department of Consumer Affairs succeeded to, and was vested with, all the duties, powers, purpose, responsibilities and jurisdiction of the Cemetery Board and the Board of Funeral Directors and Embalmers, and consolidated the functions into the Cemetery and Funeral Programs. Effective January 1, 2001, the regulatory agency is designated (continued...)

2. On or about January 13, 2011, the Cemetery and Funeral Bureau issued Funeral Establishment License Number FD 2078 to Royal Memories Funeral and Cremation Services, Inc., Harold D. Cole, President/Manager (hereinafter "Respondent Royal Memories"). The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2014, unless renewed.

3. On or about August 17, 2005, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 2589 to Harold Dwight Cole (hereinafter "Respondent Cole"). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2014, unless renewed.

JURISDICTION

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

STATUTES AND REGULATIONS

5. Section **7615** of the Code states:

A funeral director is a person engaged in or conducting, or holding himself or herself out as engaged in any of the following:

(a) Preparing for the transportation or burial or disposal, or directing and supervising for transportation or burial or disposal of human remains.

(b) Maintaining an establishment for the preparation for the transportation or disposition or for the care of human remains.

(c) Using, in connection with his or her name, the words "funeral director," or "undertaker," or "mortician," or any other title implying that he or she is engaged as a funeral director.

6. Section **7616.2** of the Code states:

A licensed funeral establishment shall at all times employ a licensed funeral director to manage, direct, or control its business or profession. Notwithstanding any other provisions of this

(...continued)
as the Cemetery and Funeral Bureau.

chapter, licensed funeral establishments within close geographical proximity of each other, may request the bureau to allow a licensed funeral director to manage, direct, or control the business or profession of more than one facility.

7. Section **7617** of the Code states:

The business of a licensed funeral establishment shall be conducted and engaged in at a fixed place or facility.

No person, partnership, association, corporation, or other organization shall open or maintain a place or establishment at which to engage in or conduct, or hold himself or herself or itself out as engaging in or conducting, the business of a funeral establishment without a license.

8. Section **7621** of the Code states:

The applicant shall also furnish the bureau with satisfactory proof that the facility in which he or she intends to conduct business as a funeral director is or will be constructed, equipped and maintained in all respects as a licensed funeral establishment as defined in this chapter.

9. Section **7628** of the Code states:

Any person, partnership, association, corporation, or other organization desiring to change the location of a licensed funeral establishment shall apply therefor on forms furnished by the bureau and shall include a fee fixed by this chapter.

The application shall be granted by the bureau upon the filing with the bureau of a favorable report from an inspector concerning the physical status or plans and specifications of the proposed licensed funeral establishment to the effect that it conforms to the requirements of this article.

10. 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, 1 and the bureau shall have all the powers granted therein.

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11. Section **7703** of the Code states:

Violation of any of the provisions of this chapter or of the rules and regulations adopted pursuant to this chapter constitutes a ground for disciplinary action.

12. California Code of Regulations, Title 16, section **1210**, states:

The certificate of licensure shall remain the property of the State of California, in possession of the licensee only so long as he/she or it exercises the license at the location specified in the license, and said certificate shall be surrendered to the bureau upon change of address, change of name, assignment or upon discontinuance of business at the specified address. This rule shall not prevent a licensed funeral director from conducting a funeral in another licensed establishment, nor shall it prevent a licensed funeral director from conducting a funeral at a church, cemetery, home, public hall, lodge room, or other suitable place.

COSTS

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

FACTUAL SUMMARY

14. On or about January 17, 2013, a Bureau inspector visited the record address of Respondent Royal Memories and discovered that Respondent Royal Memories no longer occupied that location. Respondent Royal Memories had not notified the Bureau of any change or address or cessation of operation.

15. In a letter dated February 28, 2013, the Bureau notified Respondents that they were in violation of law based on their non-reporting of a change or address or cessation of operation. The letter directed Respondents to submit forms either requesting a change of address or requesting cancellation of the Establishment license. Respondent Cole responded by letter and requested a sixty-day extension, which the Bureau granted.

16. In a letter dated July 10, 2013, the Bureau notified Respondents that they were still in violation of law, and that the 60-day extension had expired. The letter directed Respondents to

submit forms either requesting a change of address or requesting cancellation/surrender of the Establishment license within 15 days. Respondents did not respond to this letter.

17. In a letter dated September 11, 2013, the Bureau notified Respondents that they were still in violation of law. The letter directed Respondents to submit forms either requesting a change of address or requesting cancellation/surrender of the Establishment license within 10 days. Respondents did not respond to this letter.

CAUSE FOR DISCIPLINE

(Failure to Comply With Rules)

18. Respondents are subject to disciplinary action under Code sections 7628 and 7703, and pursuant to California Code of Regulations, Title 16, section 1210, in that Respondents failed to surrender the license of Respondent Royal Memories when said respondent changed its address and/or discontinued business at its address of record.

PRAYER

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

1. Revoking or suspending Funeral Establishment License Number FD 2078, issued to Royal Memories Funeral and Cremation Services, Inc., Harold D. Cole, President/Manager;

2. Revoking or suspending Funeral Director License Number FDR 2589, issued to Harold D. Cole;

3. Ordering Respondents 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;

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

DATED: November 18, 2013 Lisa M. Moore

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

STATE OF CALIFORNIA
dca
DEPARTMENT OF CONSUMER AFFAIRS

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Subject: Royal Memories Funeral and Cremation Services, Inc.
175 N. Redwood Drive, Suite 135
San Rafael, CA 94903
FUNERAL ESTABLISHMENT LICENSE (FD 2078)

HAROLD D. COLE
1922 13TH AVE.
OAKLAND, CA 94606
FUNERAL DIRECTOR (FDR 2589)

CASE NO: A1 2013 65

The Cemetery and Funeral Bureau requests the following action: Accusation for the revocation of subject's Funeral Establishment License and the placement of the Funeral Director License on probation.

The licensee is alleged to be in violation of Section 7628 of the Business and Professions Code.

The following documents are submitted for review.

1. License certifications
2. Inspection Report No. IN 2013 26 dated January 17, 2013
3. Notice of Warning issued to Royal Memories Funeral and Cremation Services dated February 28, 2013 with a date to come into compliance by April 15, 2013.
4. Letter from Royal Memories Funeral and Cremation Services dated April 16, 2013 requesting a sixty (60) day extension. Extension was granted by the Bureau.

5. Letter to Royal Memories Funeral and Cremation Services from the Bureau dated July 10, 2013, giving fifteen (15) days to come into compliance or be subject to disciplinary action.
6. Letter to Royal Memories Funeral and Cremation Services from the Bureau dated September 11, 2013, as the final request to come into compliance with the laws and regulations governing funeral practice in California. The respondent was giving 10 days from receipt of the letter to come into compliance. The letter was signed for on September 16, 2013 by a representative of Royal Memories Funeral and Cremation Services.

If there is sufficient evidence to support the Bureau's request, please have the necessary pleadings prepared.

If you have any questions or need further information, please contact Ellis Kjer in the Bureau's Enforcement Unit at (916) 574 - 7876.

October 7, 2013
Date

Lisa M. Moore
Lisa M. Moore, Chief
Cemetery and Funeral Bureau