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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 and Petition to Revoke Probation 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** **2605 9th Avenue Apt E** **Oakland CA 94606** **Funeral Director License No. FDR 2589** Respondents.	Case No. A1 2015 219 **ACCUSATION AND PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

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

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 was cancelled on March 3, 2015.

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, 2016, unless renewed.

4. In a disciplinary action entitled "In the Matter of the Accusation Against Royal Memories Funeral and Cremation Services, Inc., and against Harold Dwight Cole, Respondents," Case No. A1 2013 65, the Cemetery and Funeral Bureau issued a Decision and Order, effective November 13, 2014, in which Respondents' Funeral Establishment License and Funeral Director License were revoked. However, the revocation was stayed and Respondents' licenses were placed on probation for three (3) years with certain terms and conditions. A copy of that Decision and Order is attached as Exhibit A and is incorporated by reference.

JURISDICTION AND STATUTORY PROVISIONS

5. This Accusation and Petition to Revoke Probation is brought before the Director of the Department 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 ("Code") unless otherwise indicated.

6. Section **118(b)** of the Code states:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

STATUTES AND REGULATIONS

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

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.

CAUSE FOR DISCIPLINE

(Unlawful Operation/Advertisement of Funeral Establishment)

14. Respondents are subject to disciplinary action under Code sections 7617, 7628 and 7703, in that Respondents maintain a place or establishment at which to engage in or conduct, and/or hold themselves out as engaging in or conducting, the business of a funeral establishment without a license to do so. The circumstances are as follows:

15. On or about December 12, 2014, the Bureau issued a letter to Respondents denying their application for a change of location of the Royal Memories Funeral Establishment License, number FD 2078, to 1000 Fourth Street, Suite 800, San Rafael, CA. In the letter, the Bureau informed Respondents that they were required to, within thirty days, either surrender the Funeral Establishment License or submit a new application for another location.

16. On or about February 21, 2015, Respondents notified the Bureau that they were surrendering Funeral Establishment License No. FD 2078. On or about March 3, 2015, the Bureau cancelled the license.

17. Notwithstanding the cancellation of License No. FD 2078, Respondents have continued to advertise that they are open for business at the 1000 Fourth Street location in San Rafael.

PETITION TO REVOKE PROBATION

18. The allegations of paragraphs 1 through 17 of the Accusation/Petition to Revoke Probation are incorporated herein by reference and are realleged as if fully set forth.

FIRST CAUSE TO REVOKE PROBATION

(Failure to Obey Laws)

19. At all times after the effective date of Respondents' probation in Case No. A1 2013 65, the Bureau's Order stated as a condition of probation, in pertinent part:

[Respondents] shall comply with all conditions of probation and obey all federal, state, and local laws, and all rules and regulations governing the programs regulated by the department.

20. Respondents' probation in Case No. A1 2013 65 is subject to revocation because Respondents failed to comply with this condition. The circumstances are as follows:

21. Respondents have failed to obey all laws, as set forth above in the Cause for Discipline.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Complete Ethics Course)

22. At all times after the effective date of Respondent Cole's probation in Case No. A1 2013 65, the Bureau's Order stated as a condition of probation, in pertinent part:

Within 30 days of the effective date of this decision, respondent Harold Dwight Cole shall submit for prior Department approval a course of Ethics, which will be completed within the first year of probation.

23. Respondent Cole's probation in Case No. A1 2013 65 is subject to revocation because he failed to comply with this condition. The circumstances are as follows:

24. Respondent Cole failed to submit an appropriate course of Ethics for Department approval, and failed to complete and Ethics course during the first year of probation.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation and Petition to Revoke Probation, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking the probation that was granted by the Cemetery and Funeral Bureau in Case No. A1 2013 65 and imposing the disciplinary order that was stayed, thereby revoking Funeral Establishment License No. FD 2078, issued to Royal Memories Funeral and Cremation Services, Inc., Harold D. Cole, President/Manager, and revoking Funeral Director License No. FDR 2589, issued to Harold Dwight Cole;

2. Revoking or suspending Funeral Establishment License No. FD 2078, issued to Royal Memories Funeral and Cremation Services, Inc., Harold D. Cole, President/Manager, and revoking Funeral Director License No. FDR 2589, issued to Harold Dwight Cole;

3. Ordering Respondents to pay the Director of Consumer Affairs 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: December 28, 2015 Lisa M. Moore

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