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

In the Matter of the Accusation Against:	Case No. A1 2009 378
GREGORY ROBERT CALDERON and GREGORY CALDERON DBA "CALDERON FUNERAL HOME," **1309 San Andres Street, #C** **Santa Barbara, CA 93101** **Funeral Establishment License No. FD 1988** **Embalmer's License No. EMB 8288** **Funeral Director's License No. FDR 1487,** Respondent.	**DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 16, 2010, Complainant Richard L. Wallinder, Jr., in his official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs, filed Accusation No. A1 2009 378 against Gregory Robert Calderon individually and d.b.a. "Calderon Funeral Home" ("Respondent") before the Director of the Department of Consumer Affairs. (The Accusation is attached as Exhibit A.)

2. On or about August 18, 2008, the Bureau issued Funeral Establishment License Number FD 1988 to Respondent. On or between August 31, 2009 and November 3, 2009, the funeral establishment license expired and was subsequently renewed. The funeral establishment license was in full force and effect at all times relevant to the charges brought herein, although it

subsequently lapsed on August 31, 2010 and has not been renewed. These lapses in licensure, however, pursuant to Business and Professions Code section 118(b) do not deprive the Bureau of its authority to institute or continue this disciplinary proceeding.

3. On or about August 9, 1995, the Bureau issued Embalmer License Number EMB 8288 to Respondent. On or between August 31, 2009 and November 3, 2009, the embalmer's license expired and was subsequently renewed. The embalmer's license was in full force and effect at all times relevant to the charges brought herein, although it subsequently lapsed on August 31, 2010 and has not been renewed. These lapses in licensure, however, pursuant to Business and Professions Code section 118(b) do not deprive the Bureau of its authority to institute or continue this disciplinary proceeding.

4. On or about October 6, 1998, the Cemetery and Funeral Bureau issued Funeral Director's License No. FDR 1487 to Respondent. The funeral director's license was in full force and effect at all times relevant to the charges brought herein, although it subsequently lapsed on October 31, 2010 and has not been renewed. This lapse in licensure, however, pursuant to Business and Professions Code section 118(b) does not deprive the Bureau of its authority to institute or continue this disciplinary proceeding.

5. On or about October 18, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. A1 2009 378, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record (A copy of the Proof of Service is attached as Exhibit B.) Pursuant to Business and Professions Code section 136 and/or agency specific statute or regulation, Respondent's address of record is required to be reported and maintained with the Bureau, which was and is:

1309 San Andres Street #C
Santa Barbara, CA 93101.

6. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.

7. Government Code section 11506 states, in pertinent part:

> (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

8. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. A1 2009 378.

9. California Government Code section 11520 states, in pertinent part:

> (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

10. Pursuant to its authority under Government Code section 11520, the Director finds Respondent is in default. The Director will take action without further hearing and, based on the affidavits of Ellis Kjer and Daniel Redmond (attached as Exhibits C and D, respectively) finds that the charges and allegations in Accusation No. A1 2009 378 are separately and severally true and correct by clear and convincing evidence.

11. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is $3,817.50 as of December 14, 2010.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Calderon Funeral Home, Gregory Robert Calderon has subjected his Funeral Establishment License No. FD 1988, his Embalmer License Number EMB 8288, and his Funeral Director's License No. FDR 1487 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Director of Consumer Affairs is authorized to revoke Respondent's Funeral Establishment License, Embalmer's License and Funeral Director's License based upon the

following violations alleged in the Accusation, which are supported by the exhibits provided in this case:

a. **Operating a Funeral Establishment without a Current License –** Business and Professions Code section 7616 - for operating and maintaining "Calderon Funeral Home" from August 31, 2009 to October 21, 2009 without an active funeral establishment license, while accepting bodies for preparation for funeral and disposition;

b. **Embalming without a Current License -** Business and Professions Code section 7441 - for embalming bodies from August 31, 2009 to October 21, 2009 without an active embalmer's license;

c. **Gross Negligence, Gross Incompetence or Unprofessional Conduct -** Business and Professions Code section 7707 and section 1216 of Title 16 of the California Code of Regulations - for failing to cremate timely the bodies of three people, for improperly storing their remains in his funeral home, and for failing to take the necessary steps to correct a death certificate;

d. **Failing to Put Client Funds into Trust -** Business and Professions Code sections 7737 and 7739 – for failing to place his clients' funds for preneed arrangements into trust and for failing to pay those funds back when his business closed;

e. **Fraud** - Business and Professions Code section 7692 - for accepting payments for preneed funeral arrangements and then closing his business without refunding those payments;

f. **Failure to Meet the Requirements for Preneed Trust Agreements** - Section 1275 of Title 16 of the California Code of Regulations – for accepting payments for preneed funeral arrangements without entering into agreements that included the required terms and disclosures;

g. **Failing to Report Preneed Arrangements -** Section 1269 of Title 16 of the California Code of Regulations – for failing to report preneed funeral arrangements to the Bureau, failing to place his clients' funds for those preneed arrangements into trust, and for lying about the existence of those preneed arrangements to a Bureau investigator.

h. **Failing to Exercise Supervision or Control** - Section 1204 of Title 16 of the California Code of Regulations - for failing to supervise and to control his funeral establishment to ensure full compliance with state law.

ORDER

IT IS SO ORDERED that Funeral Establishment License No. FD 1988, Embalmer's License Number EMB 8288, and Funeral Director License Number FDR 1487 heretofore issued to Respondent Gregory Robert Calderon are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 20, 2011.

It is so ORDERED 1/20/11

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

Attachment:
Exhibit A: Accusation
Exhibit B: Proof of Service of Accusation
Exhibit C: Declaration in Support of Default Decision (Kjer)
Exhibit D: Declaration in Support of Default Decision (Redmond)

Exhibit A

Accusation

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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: **CALDERON FUNERAL HOME,** **GREGORY ROBERT CALDERON** **1309 San Andres Street** **Santa Barbara, CA 93101** **Funeral Establishment License No. FD 1988** **Embalmer's License No. EMB 8288** **Funeral Director License No. FDR 1487** Respondent.	Case No. A1 2009 378 **ACCUSATION**

Complainant alleges:

PARTIES

1. Richard L. Wallinder, Jr. ("Complainant") brings this Accusation solely in his official capacity as the Bureau Chief of the Cemetery and Funeral Bureau ("Bureau"), Department of Consumer Affairs.

2. On or about August 18, 2008, the Bureau issued Funeral Establishment License Number FD 1988 to Calderon Funeral Home, Gregory Robert Calderon ("Respondent"). On or between August 31, 2009 and November 3, 2009, the funeral establishment license expired and was subsequently renewed. The license expired on August 31, 2010 and has not been renewed.

3. On or about August 9, 1995, the Bureau issued Embalmer License Number EMB 8288 to Respondent. On or between August 31, 2009 and November 3, 2009, the embalmer's license expired and was subsequently renewed. The license expired on August 31, 2010 and has not been renewed.

4. On or about October 6, 1998, the Bureau issued Funeral Director License number FDR 1487 to Respondent. The license is current and will expire on October 31, 2010 unless the license is renewed.

JURISDICTION

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

6. Section 7686 of the Code provides, in pertinent part, the Bureau may suspend or revoke licenses, after proper notice and hearing to the licensee, if Bureau has found the licensee guilty of any of the acts or omissions constituting grounds for disciplinary action.

7. Section 118 subdivision (b) of the Code provides the expiration or cancellation of a license shall not deprive the Director or Bureau of jurisdiction to take disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY AND REGULATORY PROVISIONS

8. Section 7616 of the Code provides that unless a person is licensed as a funeral director that person shall not operate or maintain or hold himself out as operating or maintaining a licensed funeral home, including conducting activities related to the preparation and arrangement for the funeral, transportation, burial, or other disposition of human remains.

9. Section 1204 of Title 16 of the California Code of Regulations provides in relevant part:

> "(a) Any person, association, partnership, corporation or other organization licensed and conducting business as a funeral establishment shall designate a licensed funeral director to manage the establishment, and shall report the designation to the Board within 10 days of the effective date of the designation.
>
> (b) 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, the provisions of this chapter and the applicable provisions of the Health and Safety Code. Failure of the designated managing licensed funeral director and/or the licensed funeral establishment to exercise such supervision or control, or failure of the holder of the funeral establishment license to make such designation shall constitute a ground for disciplinary action.

. . . .

(d) A funeral director who advertises his or her services shall hold a current, active license, and shall include his or her license number, the name and license number of the funeral establishment at which he or she is employed, and the name of the city or community where the funeral establishment is located on any television and print advertising including, but not limited to, telephone and other directory listings, and newspaper and magazine advertisements."

10. Section 7641 of the Code provides, in relevant part, "[i]t is unlawful for any person to embalm a body, or engage in, or hold himself or herself out as engaged in practice as an embalmer, unless he or she is licensed by the bureau."

11. Section 7692 of the Code provides in full: "Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer constitutes a ground for disciplinary action."

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

13. Section 7735 of the Code provides in relevant part that funeral establishments may enter into "preneed arrangements" for people to pay for funeral services in advance, but only if the contract for this preneed arrangement requires that all money paid shall be held in trust:

"No funeral establishment licensed under the laws of the State of California, or the agents or employees of a funeral establishment, shall enter into or solicit any preneed arrangement, contract, or plan, hereinafter referred to as 'contract,' requiring the payment to the licensee of money or the delivery to the licensee of securities to pay for the final disposition of human remains or for funeral services or for the furnishing of personal property or funeral merchandise, wherein the use or delivery of those services, property or merchandise is not immediately required, unless the contract requires that all money paid directly or indirectly and all securities delivered under that agreement or under any agreement collateral thereto, shall be held in trust for the purpose for which it was paid or delivered until the contract is fulfilled according to its terms . . . ."

14. Section 7737 of the Code provides in relevant part that a funeral establishment must place all money received for a preneed arrangement in trust within 30 days of receipt:

"All securities purchased by the trustor for deposit in trust and all money received from the trustor for deposit in trust shall be placed in trust with a trustee [a bank or trust company] within 30 days of their receipt by the funeral establishment pursuant to a trust agreement executed by the funeral establishment, the trustor and trustee which shall provide that the trustee shall hold the money or securities in trust for the purposes for which deposited and that the trustee, upon the signature of a majority of such trustees, shall deliver the corpus of the trust to the funeral establishment upon the filing of a certified copy of the death certificate or other satisfactory evidence of the death of the beneficiary, together with satisfactory evidence that the funeral establishment has furnished the merchandise and services . . . ."

15. Section 1275 of Title 16 of the California Code of Regulations has detailed requirements for preneed arrangements:

"A preneed trust contract within the meaning of Article 9, Chapter 12, Division 3, of the Business and Professions Code shall include but not be limited to the following information:

(a) The name and address of the trustor.

(b) The name and address of the beneficiary.

(c) The names and addresses of the trustees.

(d) The name, address and phone number of the funeral establishment.

(e) A sequential number which shall be continuous and in order of issue.

(f) A copy of the completed funeral arrangements forms including, but not limited to, the following:

(1) A description of the merchandise and services selected which is sufficiently detailed to identify them; and

(2) Any disclosure of prices or itemization of services or merchandise, which is required to be provided pursuant to State or Federal law, rule or regulation then in effect.

(g) A statement that earned annual income is being credited to the account and that administrative expenses, if charged, are paid from income only.

(h) A statement, in clear nontechnical language, that the contract is either a guaranteed preneed contract or that it is a nonguaranteed preneed contract, and, if guaranteed only in part, the services or merchandise included in the guarantee shall be specified. This statement shall be printed in bold face type and shall be located on the first page of the contract.

(1) If the contract is guaranteed, there shall be included in the contract a complete explanation of all the terms and conditions limiting the guarantee.

(2) If the contract is not guaranteed, there shall be included in the contract a complete explanation of how the trust balance will be applied to pay for services and merchandise provided at the beneficiary's death and that there may be additional payments required or a refund due.

(i) A statement that the trustees of the trust will deliver the corpus of the trust and net income to the funeral establishment filing a certified copy of the Death Certificate and evidence that said funeral establishment has furnished the merchandise and services. (Corpus of the Trust means all monies paid and all securities delivered pursuant to this prearrangement contract.)

(j) A statement that the amount of revocation fee to be charged in the event of revocation, shall in no event exceed ten percent (10%) of the paid-in corpus and is chargeable against earned income only; and a statement that no revocation fee may be charged if the funeral establishment is unable to perform substantially according to the terms of the agreement.

(k) In immediate proximity to the space reserved for the purchaser's signature, in a size equal to at least ten point (10-point) bold type, the following statement: "All funds received will be deposited with the trustees within thirty (30) days and held in a trust which is fully refundable upon fifteen (15) days' written notice except when the beneficiary is the recipient of public assistance, as provided in the Welfare and Institutions Code and this trust agreement has been designated as being irrevocable thereunder."

16. Section 1269 of Title 16 of the California Code of Regulations requires funeral establishments entering into preneed arrangements to disclose the details of those arrangements to the Bureau:

"(a) Each licensed funeral establishment and licensed funeral director who enters into any preneed arrangements, contracts or plans described in and subject to the provisions of Article 9, Chapter 12, Division 3 of the Business and Professions Code shall file with the Board annually on or before May 1 of each year and upon transfer of license or cessation of business, a written, verified or audited report, on form 21P-4A (1/94) prescribed and furnished by the Board, pertaining to funds received and held under such arrangements, contracts or plans. Firms utilizing a fiscal year accounting system may request permission, in writing to the Executive Officer, to file said report on a fiscal year basis and, if permission is granted, said report shall then be filed with the Board no later than 120 days from the date of the close of said fiscal year.

(b) The report required under this Article shall accompany the forms of assignment or transfer of a funeral establishment license. The report required hereunder upon cessation of business as a licensed funeral establishment shall be submitted thirty (30) days prior to such cessation of business.

(c) In cases where trust corpus is deposited in individual savings accounts, and not commingled for investment purposes, the Board may require a verified report. Said requirement of verification shall be deemed complied with by a verification under penalty of perjury by the owner, partners, or, in the case of a corporation, by the president or vice-president and one other officer thereof and, in addition thereto, all reports must contain a verification under penalty of perjury executed by at least two (2) trustees not employed by the funeral establishment and, in the case of a banking institution or trust company legally authorized to act as a trustee within the meaning of Section 7736 of Article 9, Chapter 12, Division 3, of the Business and Professions Code, a verification under penalty of perjury on behalf of such trustee by an authorized representative of said trustee.

(d) In cases where trust funds have been commingled for purposes of investment, the Board may require, in addition to the written report required by subsection (a) of this section, an independent audit report prepared and signed by a Certified Public Accountant or Public Accountant, currently licensed in the State of California, which certifies compliance with the provisions of Article 9, Chapter 12, Division 3 of the Business and Professions Code and the provisions of this Article.

(e) All written reports required under this section shall include, but are not limited to, a statement setting forth:

(1) Amounts collected pursuant to preneed arrangements, contracts or plans, or any agreements collateral thereto;

(2) Amounts deposited with the trustee and held in trust;

(3) Amounts of authorized expenditures of income allocable to individual accounts, itemized as to the nature of expenditures;

(4) Amount of authorized expenditures of income paid, itemized as to the nature of expenditure; and

(5) Separately, the total amount of such trust funds invested in each of the investments authorized by law and the amount of cash on hand not invested which statement actually show the financial condition of the trust funds."

17. Section 7739 of the Code provides that violations of the statutes governing preneed arrangements are crimes as well as bases for Bureau disciplinary action:

"Any person willfully violating the provisions of this article or any of them shall be punishable either by imprisonment in the county jail for a period not exceeding six months, or by fine not exceeding five hundred dollars ($500), or by both imprisonment and fine, or by imprisonment in the state prison for 16 months, or two or three years. If the violator is a funeral establishment licensee, he or she shall also be subject to disciplinary action as provided in Article 6 (commencing with Section 7686)."

COST RECOVERY AND RESTITUTION

18. Section 125.3, subdivision (a), of the Code provides, 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."

19. Section 11519(d) of the Government Code provides, in pertinent part, that the Registrar may require restitution of damages suffered as a condition of probation in the event probation is ordered.

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STATEMENT OF FACTS

20. On or about October 6, 1998, the Bureau issued Respondent Gregory Robert Calderon a funeral director's license.

21. On or about August 9, 2005, the Bureau issued Respondent an embalmer's license.

22. On or about August 18, 2008, the Bureau issued a funeral establishment license to Calderon Funeral Home, whose sole owner and manager was Respondent Gregory Robert Calderon.

23. On or about August 31, 2009, Respondent's funeral establishment license and embalmer's license expired.

24. From August 31, 2009 to October 21, 2009, Respondent operated and maintained the Calderon Funeral Home in the City of Santa Barbara, including accepting bodies for preparation for funeral and disposition, embalming bodies, and filing death certificates.

25. On or about October 14, 2009 and October 22, 2009, Bureau investigators spoke to Respondent about operating his funeral establishment without active licenses. Only after these conversations did Respondent act: on or about November 3, 2009, he renewed his funeral establishment license and his embalmer's license.

26. On or about March 22, 2009, twin newborns S.T. and A.T.[1] passed away and their bodies were delivered to Respondent's funeral home. Their bodies would remain there, decomposing, for another 9 months, stored beneath another person's remains. Their father authorized their cremation in May 2009. Two months later, on July 14, 2009, Respondent finally signed a declaration stating that he would cremate their remains. But he never did. Ultimately, Bureau investigators, upon discovering the twins' decomposed bodies in December 2009, forced Respondent to transport them to Oakwood Memorial Park Crematory for cremation.

27. On or about June 7, 2009, M.O., a 59-year-old woman, passed away and her body was delivered to Respondent's funeral establishment. Respondent did nothing to dispose of her remains: they remained there, decomposing, until January 2010, when Bureau investigators and

[1] The names of consumers and the deceased discussed in this accusation are abbreviated to protect their privacy.

the Deputy Public Administrator of the County of Santa Barbara arranged to have another funeral establishment cremate them.

28. On or about May to July 2009, R.O.G., a Michigan resident, contacted Respondent to have an erroneous death certificate corrected. Respondent had arranged for the cremation of R.O.G.'s father's remains by the Calderon Funeral Home on or about March 2009 and had been responsible for filing the original death certificate. Respondent promised to correct the error on the death certificate by personally taking the appropriate paperwork to the County Coroner's office. Respondent then claimed he had taken the paperwork to the Coroner, when he had not. This caused considerable delay and confusion for R.O.G.

29. On or about June 19, 2009, J.L.F., a senior citizen, gave Respondent a check for $1,187 for a preneed funeral arrangement. While Respondent provided a receipt for this transaction, the receipt did not include any of the following:

i. the names and addresses of the trustees;

ii. a sequential number to identify the preneed arrangement;

iii. a detailed description of the merchandise and services he would provide;

iv. a statement about earned annual income and administrative expenses;

v. a clear statement in bold face type disclosing whether the contract was a guaranteed or nonguaranteed preneed contract;

vi. disclosures regarding the terms of guaranteed or nonguaranteed contracts;

vii. a statement regarding when and how the trustee will disperse the trust corpus;

viii. a statement regarding revocation fees; and

ix. a statement disclosing that all funds will be deposited and held in trust.

Respondent also failed to place J.L.F's money in trust – instead, he commingled it with his business and personal funds.

30. On or about October 27, 2009, S.D.L., a senior citizen, gave Respondent $1,000 cash for a preneed funeral arrangement. Respondent provided S.D.L. with a receipt which omitted the information discussed in paragraph 26 above. And he failed to place S.D.L.'s money in trust – instead, he commingled it with his business and personal funds.

31. After receiving J.L.F's and S.D.L's payments for preneed arrangements, Respondent failed to disclose these arrangements to the Bureau. And when questioned by Bureau investigators on or about January 6, 2010, Respondent denied having made any preneed arrangements.

32. On or about January 6, 2010, Respondent's landlord evicted Respondent's funeral establishment from its tenancy at 234 E. Haley Street in the City of Santa Barbara for failing to pay rent. To date, Respondent has not reopened his funeral establishment in a new location.

33. Sometime after January 6, 2010, Respondent absconded from Santa Barbara without disclosing to the Board or his customers his new address and without returning or accounting for the money paid to him by J.L.F. or S.D.L.

FIRST CAUSE FOR DISCIPLINE

(Operating a Funeral Establishment without a Current License)

34. By committing the acts set forth in particularity in paragraphs 20 through 33, above, Respondent is subject to disciplinary action under section 7616 of the Code because he operated and maintained Calderon Funeral Home from August 31, 2009 to October 21, 2009 without an active funeral establishment license, including accepting bodies for preparation for funeral and disposition and embalming bodies.

SECOND CAUSE FOR DISCIPLINE

(Embalming without a Current License)

35. By committing the acts set forth in particularity in paragraphs 20 through 33, above, Respondent is subject to disciplinary action under section 7441 because he embalmed bodies from August 31, 2009 to October 21, 2009 without an active embalmer's license.

THIRD CAUSE FOR DISCIPLINE

(Gross Negligence, Gross Incompetence or Unprofessional Conduct)

36. By committing the acts set forth in particularity in paragraphs 20 through 33, above, Respondent is subject to disciplinary action under section 7707 of the Code and section 1216 of Title 16 of the California Code of Regulations because he failed to cremate timely the bodies of S.T., A.T, or M.O., and improperly kept and stored their remains in his funeral home.

Respondent is also subject to disciplinary action under section 7707 for failing to take the necessary steps to correct the death certificate for R.O.G. and for misleading others about the steps he had taken.

FOURTH CAUSE FOR DISCIPLINE

(Failing to Put Client Funds into Trust)

37. By committing the acts set forth in particularity in paragraphs 20 through 33, above, Respondent is subject to disciplinary action under sections 7737 and 7739 of the Code because he failed to place his clients' funds for preneed arrangements into trust and failed to pay those funds back when his business closed.

FIFTH CAUSE FOR DISCIPLINE

(Fraud)

38. By committing the acts set forth in particularity in paragraphs 20 through 33, above, Respondent is subject to disciplinary action under sections 7692 because he accepted payments for preneed funeral arrangements and then closed his business without refunding those payments.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Meet the Requirements for Preneed Trust Agreements)

39. By committing the acts set forth in particularity in paragraphs 20 through 33, above, Respondent is subject to disciplinary action under section 1275 of Title 16 of the California Code of Regulations because he accepted payments for preneed funeral arrangements without entering into agreements that included the terms and disclosures required by section 1275.

SEVENTH CAUSE FOR DISCIPLINE

(Failing to Report Preneed Arrangements)

40. By committing the acts set forth in particularity in paragraphs 20 through 33, above, Respondent is subject to disciplinary action under section 1269 of Title 16 of the California Code of Regulations because he failed to report preneed funeral arrangements to the Bureau, failed to place his clients' funds for those preneed arrangements into trust, and lied about the existence of those preneed arrangements to a Bureau investigator.

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EIGHTH CAUSE FOR DISCIPLINE

(Failure to Exercise Supervision or Control)

41. By committing the acts set forth in particularity in paragraphs 20 through 33, above, Respondent is subject to disciplinary action under section 1204 of Title 16 of the California Code of Regulations for failing to supervise and to control his funeral establishment to ensure full compliance with state law.

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 1988 issued to Calderon Funeral Home, Gregory Robert Calderon, Embalmer's License Number EMB 8288 issued to Gregory Robert Calderon, and Funeral Director License Number FDR 1487 issued to Gregory Robert Calderon.

2. Ordering Gregory Robert Calderon 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;

3. Ordering restitution of all damages according to proof suffered by J.L.F., S.D.L., and any other consumer similarly affected as a condition of probation if probation is ordered;

4. Ordering restitution of all damages according to proof suffered by J.L.F., S.D.L., and any other consumer similarly affected as a condition of restoration of any licenses issued to Gregory Robert Calderon in the event his licenses are suspended or revoked;

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

DATED: 9/16/10

Richard L. Wallinder

RICHARD L. WALLINDER, JR.
Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

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