KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General
SHAWN P. COOK
Deputy Attorney General
State Bar No. 117851
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-9954
Facsimile: (213) 897-2804
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: **SOLOMONS MORTUARY, WILLIE C. SOLOMON, SR., MANAGER, WILLIE C. SOLOMON, JR., LILLIE W. DOBSON** **10625 S. Broadway** **Los Angeles, CA 90003** **Funeral Establishment License No. FD 1428** **WILLIE C. SOLOMON, SR.** **10625 S. Broadway** **Los Angeles, CA 90003** **Funeral Director License No. FDR 2338** Respondents.	Case No. A1 2014 141 **FIRST AMENDED 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 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.

2. On or about April 25, 1985, the Cemetery and Funeral Bureau issued Funeral Establishment License Number FD 1428 to Solomons Mortuary, Willie C. Solomon, Sr., Manager and President; Willie C. Solomon, Jr., Vice-President; Lillie W. Dobson, Treasurer (Respondents). The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2017, unless renewed.

3. On or about March 12, 2003, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 2338 to Willie C. Solomon, Sr. The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2017, unless renewed.

4. On or about January 6, 1968, the Cemetery and Funeral Bureau issued Embalmer License Number EMB 5677 to Willie C. Solomon, Sr. The Embalmer License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2017, unless renewed.

JURISDICTION

5. 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.

6. 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.

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

8. Section 769 of the Code states: "Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer constitutes a ground for disciplinary action."

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

10. Section 7735 of the Code states: "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 pre-need 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; provided, however, that any payment made or securities deposited pursuant to this article shall be released upon the death of the person for whose benefit the trust was established as provided in Section 7737. The income from the trust may be used to pay for a reasonable annual fee for administering the trust, including a trustee fee to be determined by the bureau, and to establish a reserve of not to exceed 10 percent of the corpus of the trust as a revocation fee in the event of cancellation on the part of the beneficiary. The annual fee for trust administration may be recovered by withdrawals from accumulated trust income, provided that total withdrawals for this purpose shall not exceed the amount determined by the bureau. In no case shall the total amount withdrawn in a year for trust administration exceed the total amount of posted trust income for the immediate 12 preceding months. In addition to annual fees and reserves authorized by this section, a trustee may, at its election, pay taxes on the earnings on any trust pursuant to Section 17760.5 of the Revenue and Taxation Code. In no event, however, shall taxes paid on the earnings of any

trust be considered part of the fees or reserves authorized by this section. All remaining income shall be accumulated in trust.

None of the corpus of the trust shall be used for payment of any commission nor shall any of the corpus of the trust be used for other expenses of trust administration, or for the payment of taxes on the earnings of the trust."

11. Section 7737 of the Code states: "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 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, provided, however, that (1) in the case of a trust agreement between any of the trustees set forth in Section 7736 and a recipient of public assistance, under the provisions of subdivision (a) of Section 11158 or paragraph (1) of subdivision (e) of Section 12152 of the Welfare and Institutions Code, and provided the value limitations of those sections are not exceeded, such trust agreement may further provide that it is irrevocable, and (2) in all other cases such trust agreement shall further provide that at any time before the funeral establishment has furnished the merchandise and services provided for in the contract the trustor or the legally appointed representative may in writing demand and receive the return of the corpus of the trust, together with any income accrued in the trust, less the revocation fee provided for in Section 7735; provided, however, that if and when the trustor becomes otherwise eligible, or in order to become eligible, for public social services, as provided in Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, he or she may agree, at his or her option, that the trust shall be irrevocable in order to avail himself or herself of the provisions of Section 11158 or Section 12152 of the Welfare and Institutions Code. The delivery of the corpus of the trust and the accumulated income to the funeral establishment performing the

services, trustor or beneficiary pursuant to the terms of this article and the trust agreement herein referred to, shall relieve the trustee of any further liabilities with regard to those funds or income therefrom."

12. Title 16, California Code of Regulations, section 1204, states, in pertinent part, that:

"(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."

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.

Consumer, Pearl M.

FIRST CAUSE FOR DISCIPLINE

(Failure to Place Pre-Need Funds in Trust Within 30 Days of Receipt)

14. Respondents Solomons Mortuary and Solomon have subjected their licenses to disciplinary action under section 7686 for violating section 7737, in that Respondents failed to deposit pre-needs funds in trust within thirty (30) days of their receipt of the money by the funeral establishment. The circumstances are as follows:

a. On or about on March 8, 2010, Pearl M. went to Respondent Solomons Mortuary and met with a funeral counselor regarding a preneed funeral arrangement plan for her friend Carl B. Pearl M. returned to Solomons Mortuary on March 27, 2010 and gave an employee funeral counselor, Joseph Dunn ("Dunn"), a check for $4,000.00 for Carl B.'s preneed . Dunn accepted the money and gave Pearl M. a receipt.

b. Dunn claimed to have turned the money over to Lillie Dobson ("Dobson"), the secretary/treasurer of Solomons Mortuary; however Dobson did not recall receiving this money for a preneed trust for Carl B.

c. Subsequently, Carl B. wanted to relocate to another city and asked Pearl M. if he could get a refund on his preneed plan. On June 20, 2014, Pearl M. called Solomons Mortuary and spoke with Dunn regarding a preneed refund for Carl B. Dunn told Pearl M. that she would have to fill out a preneed cancellation form and it would take about two weeks to receive the preneed refund. Pearl M. went to Solomons Mortuary on June 29, 2014, and completed the preneed cancellation form.

d. After waiting approximately four weeks and not receiving a refund check, Pearl M. called Solomons Mortuary regarding the preneed refund for Carl B. Dunn told Pearl M. that she would have to speak with Respondent Solomon ("Solomon") regarding the refund. When Pearl M. spoke with Solomon he told her that he was going through financial hardship and did not have the money to refund the preneed. Solomon asked Pearl M. if she would give him time to pay the refund.

e. Following Pearl M. filing a complaint with the Board, Solomon stated to a board investigator that the "folder" maintained in his records for Carl B. did not state that it was a preneed payment and that it had a note stating to hold it for thirty days. Thereafter, Pearl M. was refunded the $4000 preneed payment by Solomons Mortuary.

SECOND CAUSE FOR DISCIPLINE

(Failure to Exercise Direct Supervision and Control)

15. Respondents Solomons Mortuary and Solomon have subjected their licenses to disciplinary action under section 7686 in conjunction with violating 16 California Code of Regulations sec. 1204, subd. (b). The circumstances are as alleged in the previous paragraph 14 and all subparts that are incorporate by reference as though fully set forth.

///

///

///

Consumer, Cleo P.

FIRST CAUSE FOR DISCIPLINE

(Failure to Place Pre-Need Funds in Trust Within 30 Days of Receipt)

16. Respondents Solomons Mortuary and Solomon have subjected their licenses to disciplinary action under section 7686 for violating section 7737, in that Respondents failed to deposit pre-needs funds in trust within thirty (30) days of their receipt of the money by the funeral establishment. The circumstances are as follows:

a. On or about March 23, 2007, Cleo P. went to Solomons Mortuary and met with Solomon who sold her a preneed for her brother, Hoskins. Payne said she completed the paperwork and gave Solomon a check for $10,000.00, for Hoskins' preneed.

b. Hoskins passed away on June 14, 2015, and because she was ill, her son made the final arrangements with funeral counselor Dunn at Solomons Mortuary for his burial. According to Cleo P., the total cost for Hoskins' services and burial was $4,958.25. Payne requested that Solomons Mortuary refund her the $5,041.75 credit balance from Hoskins' preneed.

c. Cleo P. waited approximately three months and did not receive a refund from Solomons Mortuary. She spoke with Solomon who told her that he was going through financial hardship and did not have the money to refund her. Solomon asked Cleo P. if she would give him time to refund the money to her.

d. Cleo P. never received any receipt or other documents from Solomons Morturary to memorialize that the $10,000.00 she gave Solomons Mortuary was placed into a trust. Solomon admitted to Complainant's investigator, Ted. M., that the $10,000 preneed payment was never placed into a trust fund.

e. Solomon refunded the credit balance for the $10,000 payment to Cleo P. after she filed her consumer complaint with the Bureau.

SECOND CAUSE FOR DISCIPLINE

(Failure to Exercise Direct Supervision and Control)

17. Respondents Solomons Mortuary and Solomon have subjected their licenses to disciplinary action under section 7686 in conjunction with violating 16 California Code of

Regulations sec. 1204, subd. (b). The circumstances are as alleged in the previous paragraph 16 and all subparts that are incorporate by reference as though fully set forth.

FACTORS IN AGGRAVATION

Respondent, Solomons Mortuary

18. To determine the degree of discipline, if any, to be imposed on Respondent Solomons Mortuary, Complainant alleges that prior actions, the Cemetery and Funeral Bureau issued the following Citations and ordered Respondent to pay the amounts set forth below. All of the following citations are now final and are incorporated by reference as if fully set forth:

a. Citation IC 2010 178 issued on October 7, 2010, for violation of section 7692 (b) "Misrepresentation and Fraud'. Fine issued of $1,001.00. Fine paid on June 28, 2011.

b. Citation IC 2010 248 issued on January 28, 2011, for violation of section 7707 'Gross Negligence/ gross incompetence or unprofessional conduct'. Fine issued of $1,001.00. Fine paid on June 1, 2011.

c. Citation IC 2010 375 issued on January 21, 2011, for violation of section 7707 "Gross Negligence/ gross incompetence or unprofessional conduct' and 7692 (b) "Misrepresentation and Fraud'. Fine issued of $2,002.00. Fine paid on June 28, 2011.

d. Citation IC 2010 279 issued on October 13, 2011, for violation of section 7707 'Gross Negligence/ gross incompetence or unprofessional conduct'. Fine issued of $1,001.00. Fine paid on April 6,2012.

e. Citation IC 2013 144 issued on May 3, 2013, for violation of section 1258 for Price List violations and CCR 1214 for failure to use Embalming Authorization. Fine issued of $1,002;00. Fine paid on July 23, 2013.

Respondent, Willie C. Solomon, Sr.

19. To determine the degree of discipline, if any, to be imposed on Respondent Willie C. Solomon, Sr., Complainant alleges that in prior actions, the Cemetery and Funeral Bureau issued the following Citations and ordered Respondent to pay the amounts set forth below. All of the following citations are now final and are incorporated by reference as if fully set forth:

a. Citation IC 2010 394 issued on October 7, 2010, for violation of CCR section 1204(b) 'Fail to supervise'. Fine issued of $501. Fine paid on February 28, 2011.

b. Citation IC 2011 26 issued on January 21, 2011, for violation of CCR section 1204(b) 'Fail to supervise'. Fine issued of $501. Fine paid on June 1, 2011.

c. Citation IC 2011 32 issued on January 28, 2011, for violation of CCR section 1204(b) 'Fail to supervise'. Fine issued of $501. Fine paid on August 7, 2012.

d. Citation IC 2011 423 issued on October 13, 2011, for violation of CCR section 1204(b) 'Fail to supervise'. Fine issued of $1,000. Fine paid on July 27, 2011.

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 1428, issued to Solomons Mortuary, Willie Solomon, Sr., Manager, Willie C. Solomon, Jr., Lillie W. Dobson;

2. Ordering Solomons Mortuary. 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. Revoking or suspending Funeral Director License Number FDR 1428, issued to Willie C. Solomon, Sr.;

4. Ordering Willie C. Solomon, Sr. 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;

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

DATED July 5, 2016

Lisa M. Moore

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

LA2014513165
52152681.doc