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 Funeral Establishment License No. FD 2078 and Harold Dwight Cole Oakland, CA 94606 Funeral Director License No. FDR 2589, Respondents.	Case No. A1 2013 65 OAH No. 2014040135

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Director of Consumer Affairs as the Decision in the above entitled matter.

This Decision shall become effective November 13, 2014.

IT IS SO ORDERED OCT 13 2014.

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

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PROPOSED DECISION

Administrative Law Judge Perry O. Johnson, Office of Administrative Hearings (OAH), State of California, heard this matter on August 26, 2014, in Oakland, California.

Deputy Attorney General Jonathan D. Cooper represented Complainant Lisa M. Moore.

Respondent Harold Dwight Cole was present for the hearing and he appeared on behalf of his individual interests as well as the interests of respondent Royal Memories Funeral and Cremation Services, Inc. But neither respondent Cole nor respondent Royal Memories Funeral and Cremation Services, Inc., was otherwise represented.

The record was held open to afford an opportunity to respondent Cole to file with OAH a copy of a license certification. On September 2, 2014, respondent Harold Dwight Cole filed with OAH, and served upon Deputy Attorney General Cooper, a cover letter and a two-page facsimile of a license certification as well as a copy of a bureau annual inspection report, dated January 17, 2013.

On September 3, 2014, the parties were deemed to have submitted the matter and the record closed.

FACTUAL FINDINGS

1. On November 18, 2013, Lisa M. Moore (Complainant), in her official capacity as Bureau Chief, Cemetery and Funeral Bureau (the bureau), Department of Consumer Affairs (the department), State of California, made the Accusation against Harold Dwight Cole (respondent Cole) and Royal Memories Funeral and Cremation Services, Inc. (respondent establishment).

License History

RESPONDENT COLE

2. On August 17, 2005, the bureau issued Funeral Director number FDR 2589 to respondent Cole.

RESPONDENT ROYAL MEMORIES FUNERAL AND CREMATION SERVICES, INC.

3. On January 13, 2011, the bureau issued Funeral Establishment number FD 2078 to respondent establishment. The establishment license will expire on January 31, 2015, unless renewed before that date.

Failure to Comply with Rules

4. Glenn Victor Miller (Mr. Miller) provided credible and persuasive evidence at the hearing of this matter.

5. Mr. Miller is a field representative for the bureau for the entire State of California.

6. On January 17, 2013, as part of his usual and customary duties in effecting a routine, compliance inspection of respondent establishment, Mr. Miller traveled to the address of record, which was documented in the bureau's official records, for respondent establishment at 175 North Redwood Drive, Suite 135, San Rafael (Marin County), California. Upon reaching the address of record for respondent establishment, Miller detected that the Marin Conservation League occupied the subject business premises. Also, Mr. Miller discovered that respondent establishment had vacated the premises during September 2012, which was approximately four months before the date of the inspection.

7. Respondent establishment had changed its business address or had ceased its operations during 2012 without providing the bureau with any notification that the licensed funeral establishment no longer occupied the commercial premises previously identified as its address of record.

8. Mr. Ellis Kjer provided credible and persuasive evidence at the hearing of this matter.

9. Mr. Kjer is the bureau's Lead Enforcement Analyst for the entire State of California. He is familiar with the bureau's records regarding the agency's efforts, over nearly the past two years, to prompt respondents to comply with the law. Mr. Kjer persuasively and compellingly established the matter set out in Factual Finding 10 below.

10. On February 28, 2013, the bureau, through Enforcement Analyst Allison Davis, sent a warning letter to respondent establishment, for the attention of respondent Cole, notifying respondents that an inspection had detected that the funeral establishment's address of record was incorrect or had been changed. The letter was accompanied by a blank application for respondent Cole to file with the bureau information relative to the change of address. Also, the warning letter set out that the bureau would cancel the establishment license should respondents fail to comply with the law by completing the application for address change by April 15, 2013.

On April 16, 2013, the bureau received a letter from respondent Cole that asked for a 60-day extension of the deadline to file the application with the bureau regarding the address change for respondent establishment. The bureau granted the request of respondents for the 60-day extension for filing of the address change application. (The 60-day extension gave respondents until June 16, 2013, to comply with the bureau's request.)

Nearly one month after the deadline prescribed for respondents to comply with the bureau's request, the bureau's Deputy Chief, Joy Korstjens, on July 10, 2013, sent a letter to respondent establishment, for the attention of respondent Cole. The letter observed that the 60-day extension had passed and the bureau had not received from respondents either an application for change of the premises address or notice that the funeral establishment's license should be cancelled. The deputy chief's letter stated that respondents' failure to comply with the bureau's regulations within 15 days of the date of the July 2013 letter would result in disciplinary action against the licenses held by respondents.

On September 11, 2013, the bureau's Chief, Lisa M. Moore, sent a letter to respondent establishment, for the attention of respondent Cole. The letter provided a comprehensive summary of the bureau's efforts since January 2013 to prompt respondents to comply with the law and the bureau's regulations. In addition to the above referenced correspondence by bureau personnel to respondent, the bureau chief's September 2013 letter noted that on two dates (July 26, and August 28, 2013), Bureau Enforcement Analyst Kjer had left telephonic messages for respondent Cole and that he failed to respond to those telephonic messages. The letter asked respondents to surrender the establishment license within 10 days of the date of the letter. In addition the letter gave notice that respondents' failure to comply with the law or the bureau's regulations would lead in disciplinary action against the licenses held by respondents.

11. Mr. Kjer provided compelling testimony at the hearing of this matter regarding the importance of bureau licensees to scrupulously and diligently adhere to the regulations and law that apply to the cemetery and funeral industry licensees.

Matters in Aggravation

12. On January 17, 2013, when bureau Field Representative Mr. Miller detected that respondent establishment did not occupy the premises listed in the bureau's records as the subject funeral establishment's address of record, the bureau's agent also discovered that respondent Cole's individual Funeral Director's license had expired on August 31, 2012. And the subject funeral director's License Number FDR 2589 had not been renewed by mid-January 2013. Respondent's negligence in failing to renew his funeral director's license violated Business and Professions Code section 7617.

13. On approximately March 4, 2014, respondent Cole, on behalf of respondent establishment, filed with the bureau an "Application for Change of Funeral Establishment . . . ," along with a $250 fee, for purposes of securing bureau approval of a new establishment location at 1000 Fourth Street, Suite 800, San Rafael, California 94901.

As of late July 2014 the bureau had not approved the new funeral establishment's address location due to respondents' failure to furnish the bureau with copies of a local zoning permit or a letter from local government officials acknowledging the City of San Rafael or the County of Marin had accepted the location for placement of a funeral establishment at 1000 Fourth Street in San Rafael, California. The bureau first sent a letter, dated March 19, 2014, to respondents noting the filing of a deficient application. Then on July 8, 2014, the bureau sent another letter to respondents regarding the deficient nature of the application regarding a change of location for respondent establishment. (Mr. Kjer credibly testified at the hearing that during the week of August 18 through August 22, 2014, respondent Cole had finally delivered to the bureau appropriate correspondence from the City of Rafael regarding the acceptance of the funeral establishment for its operation at the Fourth Street address in San Rafael.)

And, as of the hearing date, namely August 26, 2014, the bureau had not approved the application because an inspection had not been completed for the proposed new location for respondent establishment.

14. Mr. Miller has researched the advertisements placed by respondents. The bureau's field representive found an Internet website, which was viewed as recently as August 26, 2014, that showed respondents currently represent to the public that there are ongoing activities as a funeral establishment at 1000 Fourth Street, Suite 800, San Rafael, California. Such advertisement is false and misleading.

Both Mr. Miller and Mr. Kjer were persuasive when each bureau employee compellingly testified that respondents' advertisements, regarding the existence of a funeral

establishment by respondents at 1000 Fourth Street, San Rafael, California, were violations of the law.

Other Matters

15. Respondent called no witness to offer testimony at the hearing of this matter regarding respondent's reputation for having a good character for diligence, careful business practices, honesty, integrity and stability.

Cost Recovery

16. Complainant claims to have incurred costs of enforcement of the Accusation against respondents as follows:

COSTS ASSOCIATED WITH ATTORNEY GENERAL'S OFFICE

Deputy Atty. General (FY 2014)	
3.50 hours at $170/hour	$595
Deputy Atty. General (FY 2013)	
10.50 hours at $170/hour	$1,785
Total Costs by Attorney Time	$2,380
Paralegal (FY 08/09)	
1.5 hours at $120/hour	$180.00
Department of Justice Prosecution Fees:	$2,560
BUREAU INVESTIGATION COSTS	ZERO
TOTAL COSTS INCURRED:	$2,560

The costs incurred through the provision of services by the deputy attorney general and a paralegal with the Department of Justice are reasonable.

17. Respondents made no compelling objection to the reasonableness of complainant's petition for recovery of costs of prosecution. Respondents offered no evidence for an order to diminish or expunge the costs payable to the bureau. Respondents offered no evidence to detract from the sound basis advanced by complainant to seek the disciplinary action against respondent's license. And respondents presented no competent evidence to show that he cannot pay the department, on behalf of the bureau, the appropriate amount of the costs incurred by Complainant to prosecute this matter, especially if the department, with input from the bureau, permits respondents to pay the costs under an installment payment plan that spans a

period of years. Respondent Cole's unsubstantiated argument that he could not pay the costs was not persuasive.

18. Complainant's costs of prosecution in the amount of $2,560 are appropriate.

LEGAL CONCLUSIONS

Standard of Proof

1. "Preponderance of the evidence" is the standard of proof to be applied as to facts in dispute under the Accusation from which disciplinary action may result against the license and licensing rights held by respondents. (*Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repairs* (2011) 201 Cal.App.4th 911, 916-918.)

The Factual Findings and Order, herein, rest upon a preponderance of evidence that establishes respondents' unprofessional and unlawful acts and omissions in the matters recorded herein that support Complainant's allegations against respondents.

2. Business and Professions Code section 7617 sets out that:

> 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.

Business and Professions Code section 7621 provides that:

> 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 [the Funeral Directors and Embalmers Law].

Business and Professions Code section 7628 sets out, in pertinent part, that "any person, partnership, association, corporation, or other organization desiring to change the location of a licensed funeral establishment shall apply therefore on forms furnished by the bureau and shall include a fee fixed by [the Funeral Directors and Embalmers Law] . . . ."

California Code of Regulations, title 16, section 1203, establishes:

> 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 . . . .

(Emphasis added.)

Business and Professions Code section 7703 provides, in pertinent part, that: "violation of any of the provisions of [the Funeral Directors and Embalmers Law] or of the rules and regulations adopted pursuant to [the Funeral Directors and Embalmers Law] constitutes a ground for disciplinary action."

Cause for Discipline

3. Cause exists to revoke or suspend the license and licensing rights of respondent pursuant to Business and Professions Code section 7628 as that section interacts with Business and Professions Code section 7703, by reason of the matters set forth in Factual Findings 6 and 7.

4. Cause exists to revoke or suspend the license and licensing rights of respondent pursuant to California Code of Regulations, title 16, section 1210, as that regulation interacts with Business and Professions Code section 7703, by reason of the matters set forth in Factual Findings 6, 7 and 10.

The Purpose of the Bureau's Action

5. The purpose of administrative adjudication in licensing proceedings is not to punish licensees, but rather "to afford protection to the public upon the rationale that respect and confidence of the public is merited by eliminating from the ranks of practitioners those who are dishonest, immoral, disreputable or incompetent." (*Borror v. Department of Investment* (1971) 15 Cal.App.3d 531, 540.)

Over a period of two years, respondent Cole ignored the bureau's requests that he comply with the law by providing the bureau with the required notification of an address change for respondent establishment. Also, as a matter in aggravation, respondent Cole procured advertisements that broadcasted respondent establishment as having a business location on Fourth Street in San Rafael that had not been either inspected or approved by the bureau. And, for an extended period of time, respondent Cole allowed his individual funeral director's license to remain in a state of expiration. In a range of matters, respondent Cole has demonstrated that he has a disposition to disregard the laws and regulations that apply to

licensees in the funeral and cemetery industry. Hence, respondent Cole's conduct constitutes at least simple negligence.

Costs of Prosecution

6. Complainant has requested that respondents be ordered to pay the bureau the costs of prosecution as incurred by Complainant. Business and Professions Code section 125.3 prescribes that a "licentiate found to have committed a violation or violations of the licensing act" may be directed "to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

The California Supreme Court in *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, has directed the state's licensing agencies to scrutinize certain factors pertaining to an agency's exercise of discretion to reduce or to maintain a cost assessment, which is sought to be imposed upon a licensee found to have engaged in misconduct under Business and Professions Code section 125.3. Review or analysis under the *Zuckerman* mandate is set out in Factual Finding 17. The costs of prosecution in this matter as set out in Factual Findings 16 and 18 are reasonable and appropriate. The total appropriate costs of prosecution amount to $2,560.

Respondent Cole and respondent Royal Memories Funeral and Cremation Services, Inc., are jointly and severally liable for the total amount of the costs of prosecution of this matter.

ORDER

Royal Memories Funeral and Cremation Services, Inc

1. Funeral Establishment License No. FD 2078 issued to respondent Royal Memories Funeral and Cremation Services, Inc., is revoked; however, the revocation is stayed for a period of three years with the following terms and conditions of probation:

OBEY ALL LAWS

Respondent Royal Memories Funeral and Cremation Services, Inc., 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.

QUARTERLY REPORTS

Respondent Royal Memories Funeral and Cremation Services, Inc., shall submit quarterly declarations under penalty of perjury, in a format designated by the department, stating whether or not respondent has been in compliance with all the conditions of probation. Respondent shall also submit such additional written reports and verifications of actions

requested by the department. Should the final probation report not be made as directed, the period of probation shall be extended until such time as the final report is made.

INTERVIEW WITH DEPARTMENT REPRESENTATIVE

As necessary, respondent shall appear, through its president or chief executive officer, in person for scheduled interviews with the director or other designated representative for the purpose of monitoring compliance with the terms of this decision.

COMPLETION OF PROBATION

Upon successful completion of probation, the license of respondent Royal Memories Funeral and Cremation Services, Inc., will be fully restored.

VIOLATION OF PROBATION

Should respondent Royal Memories Funeral and Cremation Services, Inc., or any officer or director of the corporation, violate probation in any respect, the director of the Department of Consumer Affairs, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the department shall have continuing jurisdiction until the matter is final, and the probation shall be extended until the matter is final.

License Issued During Probation

Any license or registration issued to respondent Royal Memories Funeral and Cremation Services, Inc., by the department during the period of probation shall be issued as a probationary license or registration and is subject to all the terms and conditions set forth herein. Respondent must comply with terms and conditions herein and demonstrate no cause for disciplinary action or denial of an application.

Respondent Harold Dwight Cole

2. Funeral Director License No. FDR 2589 issued to respondent Harold Dwight Cole is revoked; however, the revocation is stayed for a period of three years with the following terms and conditions of probation:.

OBEY ALL LAWS

Respondent Harold Dwight Cole 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.

QUARTERLY REPORTS

Respondent Harold Dwight Cole shall submit quarterly declarations under penalty of perjury, in a format designated by the department, stating whether or not respondent has been in compliance with all the conditions of probation. Respondent Harold Dwight Cole shall also submit such additional written reports and verifications of actions requested by the department. Should the final probation report not be made as directed, the period of probation shall be extended until such time as the final report is made.

INTERVIEW WITH DEPARTMENT REPRESENTATIVE

As necessary, respondent Harold Dwight Cole shall appear in person for scheduled interviews with the Director or other designated representative for the purpose of monitoring compliance with the terms of this decision.

OUT-OF-STATE RESIDENCE OR OPERATION

Should respondent Harold Dwight Cole leave California to reside or operate outside this state, respondent must notify the department in writing of the dates of departure and return. Reporting in person may be waived if the respondent moves out of the state. However, respondent Harold Dwight Cole shall continue compliance with other terms of probation to retain California licensure. Periods of residency, business operation or employment outside California shall not reduce the probationary period.

COMPLETION OF PROBATION

Upon successful completion of probation, respondent Harold Dwight Cole's license will be fully restored.

VIOLATION OF PROBATION

Should respondent Harold Dwight Cole violate probation in any respect, the Director of the department, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent Harold Dwight Cole during probation, the department shall have continuing jurisdiction until the matter is final, and the probation shall be extended until the matter is final.

LICENSE ISSUED DURING PROBATION

Any license or registration issued to respondent Harold Dwight Cole by the department during the period of probation shall be issued as a probationary license or registration and is subject to all the terms and conditions set forth herein. Respondent Harold Dwight Cole must comply with terms and conditions herein and demonstrate no cause for disciplinary action or denial of an application.

EVIDENCE OF KNOWLEDGE

Respondent Harold Dwight Cole shall provide evidence satisfactory to the department that the licensee and all employees are knowledgeable in the laws and regulations governing the funeral industry, if deemed necessary by the policy chief or department director.

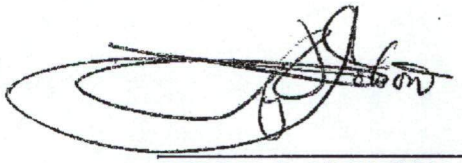
ETHICS

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.

Cost Recovery

3. Respondent Royal Memories Funeral and Cremation Services, Inc., and respondent Harold D. Cole are jointly and severally liable to pay the department, on behalf of the bureau, the costs of prosecution in the amount of $2,560. Within 30 days of the effective date of this decision, respondents, singly or together, may either pay the total measure of the costs of prosecution or may enter into an agreement with the department to pay the costs on a schedule acceptable to the department. Respondents, together or singly, shall pay the department's actual, reasonable and appropriate costs of enforcement within two years of the effective date of this decision. Probation shall not terminate for either license until full payment has been made. And neither of the licenses respectively held by respondent licensees shall be renewed until the cost recovery has been paid in full, or that respondents are otherwise in compliance with a payment plan approved by the department.

Dated: September 30, 2014



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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 **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 (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.

///

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