

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER
Deputy Attorney General
4 State Bar No. 141461
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10
11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. A1 2015 219

12 **ROYAL MEMORIES FUNERAL AND**
13 **CREMATION SERVICES, INC.**
14 **Harold D. Cole, President/Manager**
175 North Redwood Drive, Suite 135
15 **San Rafael, CA 94903**

ACCUSATION AND PETITION TO
REVOKE PROBATION

16 **Funeral Establishment License No. FD 2078**

17 **And**

18 **HAROLD DWIGHT COLE**
2605 9th Avenue Apt E
19 **Oakland CA 94606**

20 **Funeral Director License No. FDR 2589**

21 Respondents.

22
23 Complainant alleges:

24 **PARTIES**

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

28 2. On or about January 13, 2011, the Cemetery and Funeral Bureau issued Funeral

1 Establishment License Number FD 2078 to Royal Memories Funeral and Cremation Services,
2 Inc., Harold D. Cole, President/Manager (hereinafter "Respondent Royal Memories"). The
3 Funeral Establishment License was in full force and effect at all times relevant to the charges
4 brought herein and was cancelled on March 3, 2015.

5 3. On or about August 17, 2005, the Cemetery and Funeral Bureau issued Funeral
6 Director License Number FDR 2589 to Harold Dwight Cole (hereinafter "Respondent Cole").
7 The Funeral Director License was in full force and effect at all times relevant to the charges
8 brought herein and will expire on August 31, 2016, unless renewed.

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

16 JURISDICTION AND STATUTORY PROVISIONS

17 5. This Accusation and Petition to Revoke Probation is brought before the Director of
18 the Department of Consumer Affairs (Director) for the Cemetery and Funeral Bureau, under the
19 authority of the following laws. All section references are to the Business and Professions Code
20 ("Code") unless otherwise indicated.

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

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

STATUTES AND REGULATIONS

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2 7. Section **7615** of the Code states:

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

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

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

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

11 8. Section **7617** of the Code states:

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

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

17 9. Section **7621** of the Code states:

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

21 10. Section **7628** of the Code states:

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

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

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

4 **PETITION TO REVOKE PROBATION**

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

7 **FIRST CAUSE TO REVOKE PROBATION**

8 (Failure to Obey Laws)

9 19. At all times after the effective date of Respondents' probation in Case No. A1 2013
10 65, the Bureau's Order stated as a condition of probation, in pertinent part:

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

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

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

18 **SECOND CAUSE TO REVOKE PROBATION**

19 (Failure to Complete Ethics Course)

20 22. At all times after the effective date of Respondent Cole's probation in Case No. A1
21 2013 65, the Bureau's Order stated as a condition of probation, in pertinent part:

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

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

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

1 PRAYER

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

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

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

13 3. Ordering Respondents to pay the Director of Consumer Affairs the reasonable costs
14 of the investigation and enforcement of this case, pursuant to Business and Professions Code
15 section 125.3; and

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

17 DATED: December 28, 2015

Lisa M. Moore

18 LISA M. MOORE
19 Bureau Chief
20 Cemetery and Funeral Bureau
21 Department of Consumer Affairs
22 State of California
23 Complainant
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