

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

In the Matter of the Accusation Against:

Case No. A1 2015 85

**WILLIAM KENT SMITH, AKA KENT
SMITH**
3107 - 19th Street, Apt. #B
Bakersfield, CA 93301

Funeral Director License No. FDR 3164

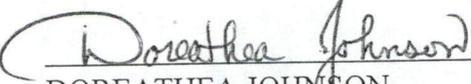
Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Director of Consumer Affairs and the Cemetery and Funeral Bureau as the Decision and Order in the above entitled matter.

This Decision shall become effective on September 16, 2016

It is so ORDERED August 26, 2016.



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 NANCY A. KAISER
Deputy Attorney General
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Attorneys for Complainant
7

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9 **FOR THE CEMETERY AND FUNERAL BUREAU**
10 **STATE OF CALIFORNIA**

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13 **SMITH**

14 **3107 - 19th Street, Apt. #B**
Bakersfield, CA 93301

15 **Funeral Director License No. FDR 3164**

16 Respondent.

STIPULATED SURRENDER OF
LICENSE AND ORDER

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibilities of the Director of Consumer Affairs and the Cemetery and
20 Funeral Bureau, the parties hereby agree to the following Stipulated Surrender of License and
21 Disciplinary Order which will be submitted to the Director for the Director's approval and
22 adoption as the final disposition of the Accusation.

23 PARTIES

24 1. Lisa M. Moore (Complainant) is the Bureau Chief of the Cemetery and Funeral
25 Bureau. She brought this action solely in her official capacity and is represented in this matter by
26 Kamala D. Harris, Attorney General of the State of California, by Nancy A. Kaiser, Deputy
27 Attorney General.
28

1 CULPABILITY

2 8. Respondent understands that the charges and allegations in Accusation No. A1 2015
3 85, if proven at a hearing, constitute cause for imposing discipline upon his Funeral Director
4 License.

5 9. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation and that those charges constitute cause for discipline.
8 Respondent also agrees that, should Respondent come before the Bureau or other board or bureau
9 of the Department of Consumer Affairs in any further or future proceedings, all of the charges
10 and allegations set forth in the Accusation shall be deemed proven without the necessity of further
11 proof by Complainant and that those charges constitute cause for discipline. Respondent hereby
12 gives up his right to contest that cause for discipline exists based on those charges and hereby
13 surrenders his Funeral Director License for the Bureau's formal acceptance.

14 10. Respondent understands that by signing this stipulation he enables the Director to
15 issue an order accepting the surrender of his Funeral Director License without further process.

16 CONTINGENCY

17 11. This stipulation shall be subject to approval by the Director or his designee.
18 Respondent understands and agrees that counsel for Complainant and the staff of the Cemetery
19 and Funeral Bureau may communicate directly with the Director and staff regarding this
20 stipulation and surrender, without notice to or participation by Respondent. By signing the
21 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
22 to rescind the stipulation prior to the time the Director considers and acts upon it. If the Director
23 fails to adopt this stipulation as the Decision and Order, the Stipulated Surrender and Disciplinary
24 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
25 action between the parties, and the Director shall not be disqualified from further action by
26 having considered this matter.

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28 ///

1 Accusation No. A1 2015 85 shall be deemed to be true, correct and admitted by Respondent when
2 the Director determines whether to grant or deny the petition.

3 5. Respondent shall pay the agency its costs of investigation and enforcement in the
4 amount of \$ 9,798.29 prior to issuance of a new or reinstated license.

5 6. If Respondent should ever apply or reapply for a new license or certification, or
6 petition for reinstatement of a license, issued by the Bureau or any other board or bureau of the
7 Department of Consumer Affairs, all of the charges and allegations contained in Accusation No.
8 A1 2015 85 shall be deemed to be true, correct, and admitted by Respondent for the purpose of
9 any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

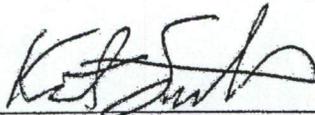
10 ACCEPTANCE

11 I have carefully read the Stipulated Surrender of License and Order. I understand the
12 stipulation and the effect it will have on my Funeral Director License. I enter into this Stipulated
13 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
14 by the Decision and Order of the Director of Consumer Affairs.

15
16 DATED:

6-27-2016





17 WILLIAM KENT SMITH, AKA KENT SMITH
18 Respondent

19 ENDORSEMENT

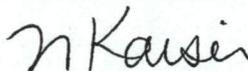
20 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
21 for consideration by the Director of Consumer Affairs.

22 Dated:

7/5/16

23 Respectfully submitted,

24 KAMALA D. HARRIS
25 Attorney General of California
26 ARMANDO ZAMBRANO
27 Supervising Deputy Attorney General



NANCY A. KAISER
Deputy Attorney General

Exhibit A

Accusation No. A1 2015 85

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
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8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE CEMETERY AND FUNERAL BUREAU**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:	Case No. A1 2015 85
12 WILLIAM KENT SMITH,	
13 AKA KENT SMITH	
14 5111 Swamps Ct.	ACCUSATION
15 Bakersfield, CA 93312	
16 Funeral Director License No. FDR 3164	
Respondent.	

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Lisa M. Moore (Complainant) brings this Accusation solely in her official capacity as
21 the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs.¹
22 2. On or about August 31, 2009, the Cemetery and Funeral Bureau issued Funeral
23 Director License Number FDR 3164 to William Kent Smith, aka Kent Smith (Respondent). The
24 Funeral Director License expired on August 31, 2015, and has not been renewed.

25
26 ¹ Effective January 1, 1996, the Department of Consumer Affairs succeeded to, and was
27 vested with, all the duties, powers, purpose, responsibilities and jurisdiction of the Cemetery
28 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.

1 JURISDICTION

2 3. This Accusation is brought before the Director of the Department of Consumer
3 Affairs (Director) for the Cemetery and Funeral Bureau, under the authority of the following laws.

4 All section references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
6 surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed with
7 a disciplinary action during the period within which the license may be renewed, restored,
8 reissued or reinstated.

9 5. Section 7686 of the Code states, in pertinent part, that the bureau may suspend or
10 revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found
11 guilty by the bureau of any of the acts or omissions constituting grounds for disciplinary action.
12 The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of
13 Division 3 of Title 2 of the Government Code, 1 and the bureau shall have all the powers granted
14 therein.

15 6. Section 7692 of the Code states: "Misrepresentation or fraud in the conduct of the
16 business or the profession of a funeral director or embalmer constitutes a ground for disciplinary
17 action."

18 7. Section 7707 of the Code provides that "gross negligence, gross incompetence, or
19 unprofessional conduct" in the practice of funeral directing constitutes a ground for disciplinary
20 action.

21 COST RECOVERY

22 8. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case.

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1 **FACTUAL SUMMARY**

2 9. At all times relevant to the charges brought herein, Respondent was employed as a
3 funeral director at Basham Funeral Care (BFC), located in Bakersfield, California. On or about
4 January 27, 2015, Respondent resigned from BFC in lieu of termination. On or about February
5 16, 2015, BFC filed a complaint against Respondent with the Bureau. The complaint alleged that
6 Respondent received cash from BFC's customers that was intended to pay for preneed funeral
7 arrangements and merchandise. Respondent never gave the money to the funeral establishment.
8 The Bureau's investigation revealed the following.

9 **Victim L.M.**

10 10. On or about September 26, 2013, Respondent executed a preneed funeral agreement
11 with L.M. for prearranged funeral services for L.M.'s grandmother, B.S., and an application for
12 group life insurance with Great Western Insurance Company (Great Western) with B.S. as the
13 insured. The proceeds of the insurance policy were assigned to BFC to pay BFC for the
14 prearranged funeral services upon the insured's death pursuant to the preneed funeral agreement.
15 The price of the policy was \$2,865. L.M. paid Respondent \$2,000 cash, leaving a balance of
16 \$856. Respondent told L.M. that Great Western would send her something in the mail that would
17 tell her how much the payments would be to pay off the remaining \$865.00 for the policy and
18 where to send the money.

19 11. After waiting several months and not hearing from Great Western, she contacted
20 Great Western directly. Great Western advised her that it did not have any record of an insurance
21 policy for B.S. L.M. contacted Respondent. Respondent told her that she still owed \$865.00 and
22 she could drop it off at BFC. L.M. took a check for \$856 into BFC and left it with a secretary.

23 12. Soon thereafter L.M. received a letter purportedly from Great Western stating that
24 B.S.' policy was paid in full and that if she had any questions, she should contact Respondent.
25 However, the letter was fraudulent. Respondent fraudulently created the letter from Great
26 Western to hide the fact that Respondent never turned in L.M.'s agreement, insurance application,
27 or money to BFC or to Great Western.

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1 **Victim B.P.**

2 13. On or about September 5, 2013, Respondent executed a preneed funeral agreement
3 with B.P. for prearranged funeral services for his wife, M.P. B.P. paid \$3,900.00 cash to
4 Respondent.

5 14. On or about October 26, 2014, M.P. died. On or about October 27, 2014, Respondent
6 sold B.P. a headstone for M.P. B.P. paid \$1,464.00 cash to Respondent.

7 15. On or about December 2, 2014, B.P. requested an upgrade to the headstone because
8 the cemetery would not accept the original size. B.P. paid \$400.00 cash to Respondent to upgrade
9 the headstone to a larger size.

10 16. Respondent never turned in B.P.'s agreement or money to BFC.

11 **Victims J.R. and M.R.**

12 17. On or about March 14, 2011, Respondent executed a Preneed Funeral Agreement and
13 Assignment with J.R., for prearranged funeral services for J.R., and an enrollment form for group
14 life insurance with Homesteaders Life Company with J.R. as the insured. On or about March 14,
15 2011, J.R. signed and put his home address on both agreements. The Preneed Funeral Agreement
16 and Assignment provides that the agreement will be funded by the assignment of life insurance
17 benefits. The price of the policy was \$5,000. J.R. selected a single payment plan for the policy
18 and paid \$5,000.00 cash to Respondent to pay for the policy in full. Respondent did not turn in
19 J.R.'s agreements or money to BFC or to Homesteaders Life Company.

20 18. On or about March 14, 2011, Respondent executed a Preneed Funeral Agreement and
21 Assignment with M.R., for prearranged funeral services for M.R., and an enrollment form for
22 group life insurance with Homesteaders Life Company, with M.R. as the insured. On or about
23 March 14, 2011, M.R. signed and put her home address on both agreements. The Preneed
24 Funeral Agreement and Assignment provides that the agreement will be funded by the assignment
25 of life insurance benefits. The price of the policy was \$5,000. M.R. selected a single payment
26 plan and paid \$5,000.00 cash to Respondent to pay for the policy in full. Respondent did not turn
27 in M.R.'s agreements or money to BFC or to Homesteaders Life Company.

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1 19. On or about June 8, 2011, Respondent re-wrote the preneed funeral agreements and
2 the life insurance enrollment forms for J.R. and M.R. Respondent executed and forged J.R.'s and
3 M.R.'s signatures on the fraudulent documents. In the fraudulent enrollment forms, J.R. and
4 M.R. purportedly selected to pay for their policies by a five year monthly installment plan, rather
5 than the single payment plan of \$5,000 for each plan. Respondent wrote his home address on the
6 agreements, instead of J.R.'s and M.R.'s home address. Respondent submitted the fraudulent
7 enrollment forms to Homesteaders Life Company. Respondent paid the first few premium
8 payments on both policies and then allowed the policies to lapse.

9 20. On or about July 14, 2011, Homesteaders Life Company sent correspondence to J.R.
10 and M.R. about their policies; however, the correspondence was sent to Respondent's home
11 address. The correspondence indicates that both M.R. and J.R. selected a multiple payment plan,
12 rather than a single payment plan, and provides details about their payment plans.

13 21. On or about October 20, 2011, Respondent sent correspondence to J.R. and M.R.
14 misrepresenting that their life policies for \$5,000.00 were created and paid for in full, that the
15 policies cover complete burial expenses, and that \$1,527.29 would be used towards the purchase
16 of a plot at a cemetery.

17 Victims E.C. and J.C.

18 22. On or about May 16, 2012, Respondent executed a preneed funeral agreement with
19 E.C., for prearranged funeral services for her father, J.C. The price was \$3,267.65, to which E.C.
20 and J.C. made payments.

21 23. On or about May 16, 2012, E.C. paid \$1,100.00 cash to Respondent. On or about
22 June 1, 2012, J.C. paid \$400.00 cash to C. Ambriz, another employee of BFC. On or about July
23 4, 2012, J.C. paid \$300.00 cash to Respondent. On or between August 4, 2012, and December 4,
24 2012, J.C. made five more cash payments to employees of BFC. The payments totaled
25 approximately \$3,260.00.

26 24. Respondent never turned in the agreement or money to BFC.

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28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Fraud or Misrepresentation)**

3 25. Respondent is subject to disciplinary action under sections 7686 and 7692 of the
4 Code, in that he committed acts which constitute misrepresentation or fraud in the practice of
5 funeral directing. The allegations contained in paragraphs 9 through 24, above, are incorporated
6 by reference as if fully set forth.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct)**

9 26. Respondent is subject to disciplinary action under sections 7686 and 7707 of the
10 Code, in that he committed acts which constitute unprofessional conduct. The allegations
11 contained in paragraphs 9 through 24, above, are incorporated by reference as if fully set forth.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Director of Consumer Affairs issue a decision:

- 15 1. Revoking or suspending Funeral Director License Number FDR 3164, issued to
16 William Kent Smith, aka Kent Smith;
- 17 2. Ordering William Kent Smith to pay the Cemetery and Funeral Bureau the reasonable
18 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
19 section 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.
- 21
- 22

23 DATED: February 9, 2010

Lisa M. Moore

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

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