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

In the Matter of the Accusation Against: **JENNIFER ROBIN HOWERTON** P.O. Box 362 Grass Valley, CA 95945 Funeral Director License No. FDR 3234 Certificate of Registration as an Apprentice Embalmer No. AE 13317 Respondent.	Case No. A1 2012 381 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 15, 2013, Complainant Lisa Moore, in her official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs[1/], filed

[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.

Accusation No. A1 2012 381 against Jennifer Robin Howerton (Respondent) before the Director of Consumer Affairs. (Accusation attached as Exhibit A.)

2. On or about April 21, 2010, the Cemetery and Funeral Bureau (Bureau) issued Funeral Director License No. FDR 3234 to Respondent. The Funeral Director License expired on April 30, 2012, and has not been renewed. Pursuant to Business and Professions Code section 118(b) the expiration of the license does not deprive the Bureau of authority to institute or continue this disciplinary proceeding.

3. On or about March 17, 2010, the Cemetery and Funeral Bureau issued Certificate of Registration as an Apprentice Embalmer No. AE 13317 to Respondent. The Certificate of Registration as an Apprentice Embalmer was in full force and effect at all times relevant to the charges brought in Accusation No. A1 2012 381 and will expire on March 17, 2016, unless renewed.

4. On or about February 27, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. A1 2012 381, 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 which, pursuant to California Code of Regulations, title 16, section 1203, is required to be reported and maintained with the Bureau. Respondent's address of record was and is:

P.O. Box 362
Grass Valley, CA 95945.

5. 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.

6. On or about March 19, 2013, the aforementioned documents were returned by the U.S. Postal Service marked "Undeliverable as Addressed, No Forwarding Order on File."

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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 her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. A1 2012 381.

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 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Director's offices regarding the allegations contained in Accusation No. A1 2012 381, finds that the charges and allegations in Accusation No. A1 2012 381, are found to be 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 cost for Investigation and Enforcement is $425 as of April 30, 2013.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Jennifer Robin Howerton has subjected her Funeral Director License No. FDR 3234 and Certificate of Registration as an Apprentice Embalmer No. AE 13317 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 Director License and Certificate of Registration as an Apprentice Embalmer based upon the

following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Respondent violated Business and Professions Code sections 7691 and 7668, subdivision (i), in that Respondent has been convicted of a substantially related crime as follows:

A. On September 11, 2012, in Nevada County Superior Court in the case entitled *People vs. Jennifer Robin Howerton*, Case SF11-325, Respondent was convicted of violating Penal Code section 487(a), (grand theft) a felony. The circumstances of the crime are that Respondent stole approximately $17,000 from her employer, Hooper & Weaver Mortuary, located in Nevada City, California.

ORDER

IT IS SO ORDERED that Funeral Director License No. FDR 3234 and Certificate of Registration as an Apprentice Embalmer No. AE 13317, heretofore issued to Respondent Jennifer Robin Howerton, 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 June 15, 2013.

It is so ORDERED MAY 16 2013

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DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

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DOJ Matter ID:SA2012108357

Attachment:
Exhibit A: Accusation

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: **JENNIFER ROBIN HOWERTON** **P.O. Box 362** **Grass Valley, CA 95945** **Funeral Director License No. FDR 3234** **Certificate of Registration as an Apprentice Embalmer No. AE 13317** Respondent.	Case No. A1 2012 381 **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]

2. On or about April 21, 2010, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 3234 to Jennifer Robin Howerton (Respondent). The Funeral Director License expired on April 30, 2012, and has not been renewed.

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[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.

3. On or about March 17, 2010, the Cemetery and Funeral Bureau issued Certificate of Registration as an Apprentice Embalmer Number AE 13317 to Jennifer Robin Howerton (Respondent). The Certificate of Registration as an Apprentice Embalmer was in full force and effect at all times relevant to the charges brought herein and will expire on March 17, 2016.

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.

5. Section 7668 of the Code states, in pertinent part: "The bureau may suspend or revoce a certificate of apprenticeship, after notice and upon complaint and hearing in accordance with the provisions of Article 6, if the apprentice is guilty of any of the following acts or omissions:

....

(i) Conviction of a crime substantially related to the qualifications, functions and duties of an apprentice, in which case the record of conviction, or a certified copy, shall be conclusive evidence of the conviction."

6. 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.

7. Section 7691 of the Code states, "Conviction of a crime substantially related to the qualifications, functions and duties of the license holder in question constitutes a ground for disciplinary action. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction."

8. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Director of

jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

9. Section 125.3, subdivision (a), states, 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."

FIRST CAUSE FOR DISCIPLINE

(Substantially Related Conviction)

10. Respondent's license and certificate of registration are subject to disciplinary action under sections 7691 and 7668, subdivision (i), respectively, in that Respondent has been convicted of a substantially related crime as follows:

A. On September 11, 2012, in Nevada County Superior Court in the case entitled *People vs. Jennifer Robin Howerton*, Case SF11-325, Respondent was convicted of violating Penal Code section 487(a), (grand theft) a felony. The circumstances of the crime are that Respondent stole approximately $17,000 from her employer, Hooper & Weaver Mortuary, located in Nevada City, California.

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 Director License Number FDR 3234, issued to Jennifer Robin Howerton.;

2. Revoking or suspending Certificate of Registration as an Apprentice Embalmer Number AE 13317, issued to Jennifer Robin Howerton;

3. Ordering Jennifer Robin Howerton 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: February 15, 2013

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

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