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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: **SIERRA VALLEY MORTUARY;** **Brian Coates – Manager and Partner** **Charles Coates – Owner and Partner** **Peggy S. Coates – Partner** **Rodney A. Knight – Partner** **Mary F. Knight – Partner** **Leslie S. Coates - Partner** **5108 Lake Isabella Blvd** **Lake Isabella, CA 93240** **Funeral Establishment License No. FD 2004** **BRIAN COATES** **5000 Shadow Branch St.** **Bakersfield, CA 93313** **Funeral Director License No. FDR 3283** Respondents.	Case No. A1 2013 95 **A C C U S A T I O N**

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 (continued...)

2. On or about March 5, 2009, the Cemetery and Funeral Bureau ("Bureau") issued Funeral Establishment License Number FD 2004 to Sierra Valley Mortuary; with Brian Coates as the manager and a partner, Charles Coates as the owner and a partner, and Peggy S. Coates, Rodney A. Knight, Mary F. Knight and Leslie S. Coates as partners ("Respondent Sierra Valley"). The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2014, unless renewed.

3. On or about October 5, 2010, the Bureau issued Funeral Director License Number FDR 3283 to Brian Coates ("Respondent Coates"). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on October 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.

5. Section 477 states, in pertinent part:

"(a) "Board includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

"(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code."

6. Section 7686 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.

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(...continued)
the Cemetery and Funeral Bureau.

STATUTORY PROVISIONS

7. Section 7692 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."

8. Section 7703 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."

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

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1204 states, in pertinent part:

"(a) Any person, association, partnership, corporation or other organization licensed and conducting business as a funeral establishment shall designate a licensed funeral director to manage the establishment, and shall report the designation to the bureau within ten (10) days of the effective date of the designation.

"(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."

COST RECOVERY

11. Section 125.3 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.

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D.C. INVESTIGATION

12. On or about March 14, 2013, the Bureau received a complaint from the Kern County Coroner's Officer ("Coroner's Office") alleging that Respondent Sierra Valley asked the Coroner's Office to sign a pre-need contract[2] on behalf of D.C., a decedent. Respondent Sierra Valley stated to the Coroner's Office that D.C. had entered into a contract for pre-need funeral services but passed away prior to signing the contract. The Coroner's Office became suspicious because the contract was dated in 2008 and D.C. did not pass away until 2013. D.C., thus, had ample time to sign the contract.

13. On or about March 29, 2013, investigators for the Bureau reviewed two pre-need contracts between D.C. and Respondent Sierra Valley. The purchased services included placing an obituary, dressing and cosmetizing, purchase of an "upgrade casket," and a "family request" for embalming. The total amount of the two contracts was $11,500.00.

14. In March of 2013 Respondent Sierra Valley paid Greenlawn Memorial Park ("GMP") $3,887.76 for D.C.'s burial vault, internment fee, as well as the California regulatory fee and sales tax.

11. On or about July 25, 2013, D.C.'s body was disinterred. D.C. was found in her hospital gown with a towel covering her face. A licensed embalmer was on hand, who confirmed that D.C. had not been embalmed and no cosmetology had been performed. Photographs were taken and D.C. was returned to her grave.

11. On or about September 10, 2013, during an interview with Respondent Sierra Valley, Bureau investigators learned that B.C. purchased the pre-need contracts on behalf of D.C., using D.C.'s funds, but without legal authority to purchase funeral services. B.C. is the niece of Charles Coates, who is the owner and a partner of Respondent Sierra Valley.

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[2] Pre-need contracts refer to funeral services purchased prior to the decedent's passing so that funeral services are already covered and paid for when the decedent passes.

FIRST CAUSE FOR DISCIPLINE

(Fraud and/or Misrepresentation)

15. Respondent Sierra Valley and Respondent Coates (referred to collectively as "Respondents") are subject to disciplinary action under section 7692 in that Respondents committed acts constituting fraud and/or misrepresentation by entering into a contract for D.C.'s burial and related services, charging D.C. for the burial and related services, and then failing to perform the majority of the services. The circumstances are as follows:

a. Respondent Sierra Valley and Respondent Coates did not place an obituary, did not embalm D.C., did not perform cosmetology services for D.C., and did not perform dressing services for D.C., after Respondents had already accepted payment for those services.

b. Respondent Sierra Valley and Respondent Coates committed further acts constituting fraud or misrepresentation when B.C., the niece of Charles Coates, purchased the preneed services using $11,500.00 of the decedent's funds but without having legal authority to make the purchase.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence, Gross Incompetence, and/or Unprofessional Conduct)

16. Respondent Sierra Valley and Respondent Coates are subject to disciplinary action under section 7707 in that Respondents committed acts constituting gross negligence, gross incompetence, and/or unprofessional conduct in connection with their handling of funeral services for D.C. The circumstances are as follows:

a. Respondent Sierra Valley and Respondent Coates failed to dress D.C. Respondents simply left D.C.'s body in her hospital gown. Respondents further failed to perform cosmetology services, failed to place an obituary, and failed to embalm D.C.

b. Respondents committed further acts constituting gross negligence, gross incompetence, and/or unprofessional conduct when Respondents allowed B.C., the niece of Charles Coates, to purchase D.C.'s preneed services using $11,500.00 of D.C.'s funds when B.C. did not have legal authority to make the purchase.

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THIRD CAUSE FOR DISCIPLINE

(Failure to Supervise)

17. Respondent Coates is subject to disciplinary action under section 7703 and California Code of Regulations, title 16, section 1204, in that Respondent Coates failed to ensure that Respondent Sierra Valley was in full compliance with the Funeral Directors and Embalmers Law, when Respondent Sierra Valley was not, for the reasons identified in paragraphs 15 and 16. Paragraphs 15 and 16, inclusive, are hereby incorporated by reference as though set forth fully.

P.W. INVESTIGATION

18. On or about September 10, 2013, the Kern Country Sheriff's Office served a search warrant on Respondent Sierra as part of the D.C. investigation. During the service of the search warrant the records for P.W. were seized because both Charles Coates and his niece B.C. were listed on the preneed contract for P.W.

19. The preneed contract for P.W called for a full burial at Union Cemetery and the contract amount was for $9,000.00.

20. The death certificate filed with the county of Kern for P.W. indicates that P.W. had not been buried. Instead, P.W. had been cremated and her remains returned to family members.

21. On or about September 10, 2013, a Bureau investigator called Union Cemetery who confirmed that P.W. had not been buried at Union Cemetery.

22. On or about December 17, 2013, a further review of P.W.'s file revealed that the cremated remains of P.W. were sent to her daughter J.A. while Homesteaders Life Insurance paid Respondent Sierra $9,226.13 for P.W.'s full burial.

23. On or about February 19, 2014, the Bureau investigator spoke to N.B., also the daughter of P.W., who stated she had never been informed of a pre-need contract or funeral services for her mother. N.B. stated that "Chuck" had offered cremation services for her mother at minimal cost and Chuck had said the "State" would help cover the costs of the cremation.

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FOURTH CAUSE FOR DISCIPLINE

(Fraud and/or Misrepresentation)

24. Respondent Sierra Valley and Respondent Coates are subject to disciplinary action under section 7692 in that Respondents committed acts constituting fraud and/or misrepresentation by entering into a contract for P.W.'s burial, charging P.W.'s insurance for the burial, and then never performing the paid for funeral arrangements. The circumstances are as follows:

a. Respondents entered into a contract for a "full burial" for P.W. and charged Homesteaders Life Insurance $9,226.13 for the full burial services. Respondents' then informed P.W.'s family that the "State" would pay for P.W.'s cremation. Respondents were paid in full for the burial services, no burial services were performed and P.W. was subsequently cremated.

FIFTH CAUSE FOR DISCIPLINE

(Gross Negligence, Gross Incompetence, and/or Unprofessional Conduct)

25. Respondent Sierra Valley and Respondent Coates are subject to disciplinary action under section 7707 in that Respondents committed acts constituting gross negligence, gross incompetence, and/or unprofessional conduct in connection with their handling of funeral services for D.C. The circumstances are as follows:

a. Respondents failure to perform the "full burial" services they contracted for, and charged Homesteaders Life Insurance for, amounts to incompetence, gross negligence and/or unprofessional conduct. The conduct is further described in paragraph 24, subparagraph (a), which is hereby incorporated by reference as though set forth fully.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Supervise)

26. Respondent Coates is subject to disciplinary action under section 7703 and California Code of Regulations, title 16, section 1204, in that Respondent Coates failed to ensure that Respondent Sierra Valley was in full compliance with the Funeral Directors and Embalmers Law, when Respondent Sierra Valley was not, for the reasons identified in paragraphs 24 and 25. Paragraphs 24 and 25, inclusive, are hereby incorporated by reference as though set forth fully.

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 2004, issued to Sierra Valley Mortuary with Brian Coates as the manager and partner and Charles Coates, Peggy S. Coates, Rodney A. Knight, Mary F. Knight and Leslie S. Coates as partners;

2. Revoking or suspending Funeral Director License Number FDR 3283 issued to Brian Coates;

3. Ordering Sierra Valley 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;

4. Ordering Brian Coates 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; and,

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

DATED: March 18, 2014

Lisa M. Moore

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

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