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

12 In the Matter of the Accusation Against:

Case No. A1 2014 15

13 **TREASURED MEMORIES FUNERAL**
14 **CARE AND CREMATIONS,**
15 **GREGORY A. HINKSON, OWNER**
16 **9550 Warner Avenue**
17 **Fountain Valley, CA 92708**

A C C U S A T I O N

18 **Funeral Establishment License No. FD 2162,**

19 **and**

20 **GREGORY A. HINKSON**
21 **5405 Alton Parkway, #361**
22 **Irvine, CA 92604**

23 **Funeral Director License No. FDR 3285**

24 Respondents.

25 Complainant alleges:

26 **PARTIES**

27 1. Lisa M. Moore (Complainant) brings this Accusation solely in her official capacity as
28 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

(continued...)

1 “(d) Suspension of the right to practice.

2 “(e) Revocation of the right to practice.

3 “(f) Such other penalties as the bureau deems fit.”

4 7. Code Section 7725.2 states:

5 “Except as otherwise provided in this article, a license that has expired may be renewed at
6 any time within five years after its expiration on filing of an application for renewal on a form
7 prescribed by the bureau and payment of all accrued and unpaid renewal fees. If the license is not
8 renewed within 30 days after its expiration the licensee, as a condition precedent to renewal, shall
9 also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be
10 effective on the date on which the application is filed, on the date on which all renewal fees are
11 paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so
12 renewed, the license shall continue in effect through the date provided in Section 7725 that next
13 occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

14 “If a license is not renewed within one year following its expiration, the bureau may require
15 as a condition of renewal that the holder of the license pass an examination on the appropriate
16 subjects provided by this chapter.”

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

23 9. Section 7686.5 of the Code states:

24 “All accusations against licensees shall be filed with the bureau within two years after the
25 performance of the act or omission alleged as the ground for disciplinary action; provided,
26 however, that the foregoing provision shall not constitute a defense to an accusation alleging
27 fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in
28 such case shall not be deemed to have accrued until discovery, by the bureau, of the facts

1 constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within
2 three years after such discovery.”

3 STATUTORY PROVISIONS

4 10. Section 22 of the Code states:

5 "(a) 'Board' as used in any provisions of this Code, refers to the board in which the
6 administration of the provision is vested, and unless otherwise expressly provided, shall include
7 'bureau,' 'commission,' 'committee,' 'department,' 'division,' 'examining committee,' 'program,' and
8 'agency.'

9 "(b) Whenever the regulatory program of a board that is subject to review by the Joint
10 Committee on Boards, Commissions, and Consumer Protection, as provided for in Division 1.2
11 (commencing with Section 473), is taken over by the department, that program shall be
12 designated as a 'bureau.'"

13 11. Section 141 of the Code states:

14 "(a) For any licensee holding a license issued by a board under the jurisdiction of the
15 department, a disciplinary action taken by another state, by any agency of the federal government,
16 or by another country for any act substantially related to the practice regulated by the California
17 license, may be a ground for disciplinary action by the respective state licensing board. A
18 certified copy of the record of the disciplinary action taken against the licensee by another state,
19 an agency of the federal government, or another country shall be conclusive evidence of the
20 events related therein.

21 "(b) Nothing in this section shall preclude a board from applying a specific statutory
22 provision in the licensing act administered by that board that provides for discipline based upon a
23 disciplinary action taken against the licensee by another state, an agency of the federal
24 government, or another country."

25 12. Section 7692 of the Code states:

26 "Misrepresentation or fraud in the conduct of the business or the profession of a funeral
27 director or embalmer constitutes a ground for disciplinary action."
28

1 13. Section 7705 of the Code states:

2 "Fraud or misrepresentation in obtaining a license constitutes a ground for disciplinary
3 action."

4 14. Section 7707 of the Code states:

5 "Gross negligence, gross incompetence or unprofessional conduct in the practice of funeral
6 directing or embalming constitutes a ground for disciplinary action."

7 **REGULATORY PROVISIONS**

8 15. California Code of Regulations, title 16, section 1253.6:

9 "In reaching a decision on a disciplinary action under the Administrative Procedure Act
10 (Government Code Section 11400 et. seq.), the bureau shall consider the disciplinary guidelines
11 entitled "A Manual of Disciplinary Guidelines for Funeral Establishments, Funeral Directors,
12 Embalmers, and Apprentice Embalmers (September 1997)" which are hereby incorporated by
13 reference. Deviation from these guidelines and orders, including the standard terms of probation,
14 is appropriate where the bureau in its sole discretion determines that the facts of the particular
15 case warrant such a deviation - for example, the presence of mitigating factors; the age of the
16 case; evidentiary problems."

17 **COSTS**

18 16. Section 125.3, subdivision (a), states, in pertinent part: "Except as otherwise provided
19 by law, in any order issued in resolution of a disciplinary proceeding before any board within the
20 department . . . upon request of the entity bringing the proceedings may request the
21 administrative law judge may direct a licentiate found to have committed a violation or violations
22 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case."

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Prior Discipline)**

26 17. Hinkson is subject to disciplinary action under Code section 141 in that he had a
27 disciplinary action taken by another state, by any agency of the federal government, or by another
28 country for an act substantially related to a funeral director. The circumstances are as follows:

1 21. On or about October 26, 2010, the Bureau received an application for a funeral
2 establishment license from Hinkson to be the sole owner and managing funeral director of an
3 applicant called Public Direct Cremations. On the license application, Hinkson was asked, "Have
4 you ever had any professional or vocational license or registration denied, suspended, revoked,
5 placed on probation or other disciplinary action taken by this or any other governmental authority
6 in this state or any other state, or any foreign country [¶] If 'yes,' please attach an explanation that
7 includes license type, action, and company name (if applicable), year of action and state." In
8 response to this question, Hinkson marked the box next to "No" and omitted an explanation of
9 any prior disciplinary action. On or about October 19, 2010, Hinkson certified under penalty of
10 perjury to the truthfulness of all statements, answers, and representations in the application and
11 sent it to the Bureau. In truth and in fact, as Hinkson well knew, Hinkson had a prior disciplinary
12 action taken against his registration, licenses, and membership with the New York Stock
13 Exchange and U.S. Securities and Exchange Commission as described above in paragraphs 17-
14 19. On or about November 23, 2010, the Bureau approved the application.

15 22. On or about March 12, 2013, the Bureau received an application for a funeral
16 establishment license from Treasured Memories and Hinkson. On the license application,
17 Treasured Memories and Hinkson were asked, "Have you ever had any professional or vocational
18 license or registration denied, suspended, revoked, placed on probation or other disciplinary
19 action taken by this or any other governmental authority in this state or any other state, or any
20 foreign country [¶] If 'yes,' please attach an explanation that includes license type, action, and
21 company name (if applicable), year of action and state." In response to this question, Treasured
22 Memories and Hinkson left this question blank and omitted an explanation of any prior
23 disciplinary action. On or about February 28, 2013, Treasured Memories and Hinkson certified
24 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application and sent it to the Bureau. In truth and in fact, as Treasured Memories and Hinkson
26 well knew, Hinkson had a prior disciplinary action taken against his registration and membership
27 with the New York Stock Exchange and U.S. Securities and Exchange Commission as described
28 above in paragraphs 17-19. On or about March 29, 2013, the Bureau approved the application.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 23. Hinkson is subject to disciplinary action under section 7692 of the Code in that he
4 committed misrepresentation or fraud in the conduct of the business or the profession of a funeral
5 director or embalmer. Complainant re-alleges and incorporates by reference the allegations set
6 forth above in paragraphs 17-22. The circumstances are as follows:

7 24. In a license application, Respondent misrepresented or concealed a material fact; he
8 knew that his representations were false or misleading; he intended to induce the Bureau to rely
9 on his representations and responses in his license application; the Bureau reasonably relied on
10 them and issued a license.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct)**

13 25. Hinkson is subject to disciplinary action under section 7707 for unprofessional
14 conduct in the practice of funeral directing. Complainant re-alleges and incorporates by reference
15 the allegations set forth above in paragraphs 17-24.

16 **PRAYER**

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

- 19 1. Revoking or suspending Funeral Establishment License Number FD 2162, issued to
- 20 Treasured Memories Funeral Care and Cremations; Gregory A. Hinkson, Owner;
- 21 2. Revoking or suspending Funeral Director License Number FDR 3285, issued to
- 22 Gregory A. Hinkson;
- 23 3. Ordering Treasured Memories and Hinkson to pay the Cemetery and Funeral Bureau
- 24 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
- 25 Professions Code section 125.3; and

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

DATED: February 6, 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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