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

13 In the Matter of the Accusation Against:

Case No. A1 2014 15

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

FIRST AMENDED
ACCUSATION

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

20 **and**

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

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

25 Respondents.

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1 Complainant alleges:

2 **PARTIES**

3 1. Lisa M. Moore (Complainant) brings this First Amended Accusation solely in her
4 official capacity as the Bureau Chief of the Cemetery and Funeral Bureau, Department of
5 Consumer Affairs.¹

6 2. On or about March 29, 2013, the Cemetery and Funeral Bureau issued Funeral
7 Establishment License Number FD 2162 to Treasured Memories Funeral Care and Cremations;
8 Gregory A. Hinkson, Owner (collectively Treasured Memories). The Funeral Establishment
9 License was in full force and effect at all times relevant to the charges brought herein and will
10 expire on March 31, 2015, unless renewed.

11 3. On or about October 14, 2010, the Cemetery and Funeral Bureau issued Funeral
12 Director License Number FDR 3285 to Gregory A. Hinkson (Hinkson). The Funeral Director
13 License was in full force and effect at all times relevant to the charges brought herein and will
14 expire on October 31, 2014, unless renewed.

15 **JURISDICTION**

16 4. This First Amended Accusation is brought before the Director of Consumer Affairs
17 (Director) for the Cemetery and Funeral Bureau, under the authority of the following laws. All
18 section references are to the Business and Professions Code unless otherwise indicated.

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

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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 6. Code Section 7690 states:

2 “The bureau may discipline every accused licensee whose default has been entered or who
3 has been tried and found guilty, after formal hearing, of any act or omission constituting a ground
4 for disciplinary action.

5 “Any of the following penalties may be imposed by the bureau:

6 “(a) Suspension of the disciplinary order.

7 “(b) Reproval, public or private.

8 “(c) Probation.

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

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

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

12 7. Code Section 7725.2 states:

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

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

25 8. Section 7686 of the Code states, in pertinent part, that the bureau may suspend or
26 revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found
27 guilty by the bureau of any of the acts or omissions constituting grounds for disciplinary action.
28 The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of

1 Division 3 of Title 2 of the Government Code, 1 and the bureau shall have all the powers granted
2 therein.

3 9. Section 7686.5 of the Code states:

4 "All accusations against licensees shall be filed with the bureau within two years after the
5 performance of the act or omission alleged as the ground for disciplinary action; provided,
6 however, that the foregoing provision shall not constitute a defense to an accusation alleging
7 fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in
8 such case shall not be deemed to have accrued until discovery, by the bureau, of the facts
9 constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within
10 three years after such discovery."

11 STATUTORY PROVISIONS

12 10. Section 22 of the Code states:

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

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

21 11. Section 141 of the Code states:

22 "(a) For any licensee holding a license issued by a board under the jurisdiction of the
23 department, a disciplinary action taken by another state, by any agency of the federal government,
24 or by another country for any act substantially related to the practice regulated by the California
25 license, may be a ground for disciplinary action by the respective state licensing board. A
26 certified copy of the record of the disciplinary action taken against the licensee by another state,
27 an agency of the federal government, or another country shall be conclusive evidence of the
28 events related therein.

1 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case."

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Prior Discipline)**

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

8 18. On or about July 11, 2001, in an administrative proceeding before the New York
9 Stock Exchange, Panel Decision 01-128, the Exchange took disciplinary action against
10 Respondent's registration and membership. A hearing panel found that Respondent was a former
11 registered representative with the Exchange; that in 2000 the Division of Enforcement of the
12 Exchange received information that Respondent had been terminated from a firm because of
13 allegations that Respondent, while employed with the firm, had misappropriated customer funds,
14 distributed unapproved and misleading correspondence containing forged signatures to
15 customers, and engaged in unauthorized trading; that in violation of Exchange Rule 477,
16 Respondent failed to cooperate with the Exchange's written request for information and failed to
17 cooperate with the Exchange's request that he appear to testify about these activities. As a result,
18 the panel imposed on Respondent a censure and a permanent bar from membership, allied
19 membership, approved person status, and employment or association in any capacity with any
20 member or member organization.

21 19. On or about August 20, 2002, in an administrative proceeding entitled *In the Matter*
22 *of Gregory A. Hinkson* before the U.S. Securities and Exchange Commission, Release No. 46387,
23 File No. 3-10868, the Commission took disciplinary action against Respondent's registration and
24 licenses (Series 7, 31, 63, and 65) as a broker. The Commission found that from 1998 to 2000,
25 Respondent, while associated with Merrill Lynch, a registered broker-dealer in Newport Beach,
26 misappropriated \$327,356.00 from five of his clients' accounts. The Commission found that
27 from 1999 to 2000, while associated with Merrill Lynch, Respondent performed trades in one of
28 his client's accounts without the client's authorization, causing to this client to lose over

1 \$140,000.00. As a result, the Commission ordered that Respondent be barred from association
2 with any broker or dealer.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Fraud or Misrepresentation in Obtaining a License)**

5 20. Treasured Memories and Hinkson are subject to disciplinary action under Code
6 section 7705 in that they committed fraud or misrepresentation in obtaining a license.

7 Complainant re-alleges and incorporates by reference the allegations set forth above in
8 paragraphs 17-19. The circumstances are as follows:

9 21. On or about February 27, 2008, in an administrative proceeding entitled *In the Matter*
10 *of the Statement of Issues Against Gregory Albert Hinkson* before the Department of Real Estate,
11 State of California (now the Bureau of Real Estate), Case No. H-34361 LA, the Department of
12 Real Estate took disciplinary action against Respondent's application for licensure as a real estate
13 salesperson. Pursuant to a default proceeding, the Real Estate Commissioner denied
14 Respondent's application under Section 10177, subdivisions (f) and (j). The bases for the
15 Statement of Issues was the above-mentioned New York Stock Exchange disciplinary proceeding
16 and a final judgment and permanent injunction that was entered against Respondent on July 19,
17 2002, in the United States District Court, Central District of California, Case No. 02-5576.

18 22. On or about October 26, 2010, the Bureau received an application for a funeral
19 establishment license from Hinkson to be the sole owner and managing funeral director of an
20 applicant called Public Direct Cremations. On the license application, Hinkson was asked, "Have
21 you ever had any professional or vocational license or registration denied, suspended, revoked,
22 placed on probation or other disciplinary action taken by this or any other governmental authority
23 in this state or any other state, or any foreign country [¶] If 'yes,' please attach an explanation that
24 includes license type, action, and company name (if applicable), year of action and state." In
25 response to this question, Hinkson marked the box next to "No" and omitted an explanation of
26 any prior disciplinary action or licensure denial. On or about October 19, 2010, Hinkson
27 certified under penalty of perjury to the truthfulness of all statements, answers, and
28 representations in the application and sent it to the Bureau. In truth and in fact, as Hinkson well

1 knew, Hinkson had a prior disciplinary action taken against his registration, licenses, and
2 membership with the New York Stock Exchange and U.S. Securities and Exchange Commission
3 and was denied licensure with the Bureau of Real Estate as described above. On or about
4 November 23, 2010, the Bureau approved the application.

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

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Fraud)**

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

26 25. In a license application, Respondent misrepresented or concealed a material fact; he
27 knew that his representations were false or misleading; he intended to induce the Bureau to rely
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1 on his representations and responses in the license application; and the Bureau reasonably relied
2 on them and issued a license.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct)**

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

8 **PRAYER**

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

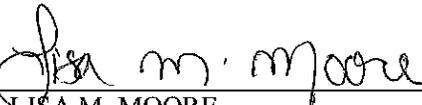
11 1. Revoking or suspending Funeral Establishment License Number FD 2162, issued to
12 Treasured Memories Funeral Care and Cremations; Gregory A. Hinkson, Owner;

13 2. Revoking or suspending Funeral Director License Number FDR 3285, issued to
14 Gregory A. Hinkson;

15 3. Ordering Treasured Memories and Hinkson to pay the Cemetery and Funeral Bureau
16 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3; and

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

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20
21 DATED: April 15, 2014



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

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