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

In the Matter of the Statement of Issues Against:

Case Nos. A1 2011 486

JOSHUA H. ALPERT A.K.A. JOSHUA HARRIS KAUFMAN 820 Palm Avenue Redwood City, CA 94061

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision of the Director of Consumer Affairs in the above-entitled matter.

This Decision shall become effective on October 26, 2012

IT IS SO ORDERED SEP 2 6 2012

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DOREATHEA JOHNSON Deputy Director, Legal Affairs Department of Consumer Affairs

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1	KAMALA D. HARRIS		
2	Attorney General of California DIANN SOKOLOFF		
3	Supervising Deputy Attorney General CAROL ROMEO		
4	Deputy Attorney General State Bar No. 124910		
5	1515 Clay Street, 20th Floor P.O. Box 70550		
	Oakland, CA 94612-0550		
6	Telephone: (510) 622-2141 Facsimile: (510) 622-2270		
7	Attorneys for Complainant		
8	BEFORE THE DEPARTMENT OF CONSUMER AFFAIRS FOR THE CEMETERY AND FUNERAL BUREAU STATE OF CALIFORNIA		
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10	STATE OF CARRY ON CAR		
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12	In the Matter of the Statement of Issues Against: Case No. A1 2011 486		
13	JOSHUA H. ALPERT STIPULATED SETTLEMENT AND DISCIPLINARY ORDER		
14	A.K.A. JOSHUA HARRIS KAUFMAN 820 Palm Avenue		
	Redwood City, CA 94061		
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16	Respondent.		
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18	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-		
19	entitled proceedings that the following matters are true:		
20	PARTIES		
21	1. Lisa M. Moore (Complainant) is the Bureau Chief of the Cemetery and Funeral		
22	Bureau, Department of Consumer Affairs. She brought this action solely in her official capacity		
23	and is represented in this matter by Kamala D. Harris, Attorney General of the State of California,		
24	by Carol Romeo, Deputy Attorney General.		
25	2. Respondent Joshua H. Alpert, also known as Joshua Harris Kaufman (Respondent) is		
26	representing himself in this proceeding and has chosen not to exercise his right to be represented		
27	by counsel.		
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On or about August 29, 2011, Respondent filed an application dated August 15, 2011, 3. with the Cemetery and Funeral Bureau, Department of Consumer Affairs to obtain a Funeral Director License.

JURISDICTION

4. Statement of Issues No. A1 2011 486 was filed before the Director of Consumer 5 Affairs (Director), for the Cemetery and Funeral Bureau (Bureau), and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on March 7, 2012.

A copy of Statement of Issues No. A1 2011 486 is attached as Exhibit A and 5. 9 incorporated by reference. 10

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ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in 12 Statement of Issues No. A1 2011 486. Respondent has also carefully read, and understands the 13 effects of this Stipulated Settlement and Disciplinary Order. 14

Respondent is fully aware of his legal rights in this matter, including the right to a 7. 15 hearing on the charges and allegations in the Statement of Issues; the right to be represented by 16 counsel at his own expense; the right to confront and cross-examine the witnesses against him; 17 the right to present evidence and to testify on his own behalf; the right to the issuance of 18 subpoenas to compel the attendance of witnesses and the production of documents; the right to 19 reconsideration and court review of an adverse decision; and all other rights accorded by the 20 California Administrative Procedure Act and other applicable laws. 21

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and 22 every right set forth above. 23

CULPABILITY

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25 9. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. A1 2011 486. 2.6

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10. Respondent agrees that his application for a Funeral Director License is subject to denial and he agrees to be bound by the Director's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

15 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
effect as the originals.

18 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
integrated writing representing the complete, final, and exclusive embodiment of their agreement.
It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that
the Director may, without further notice or formal proceeding, issue and enter the following
Disciplinary Order:

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DISCIPLINARY ORDER

The application of Respondent Joshua H. Alpert to take the funeral director examination is approved. Respondent shall take the examination for the Funeral Director license and upon achieving a passing score the license will be issued. However, the license shall be immediately revoked; the revocation will be stayed; and Respondent placed on probation for a period of three years under the following terms.

1. Obey All Laws

Respondent shall comply with all conditions of probation and obey all federal, state, and local laws, and all rules and regulations governing the programs regulated by the Bureau.

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2. Quarterly Reports

Respondent shall submit quarterly declarations under penalty of perjury, in a format
designated by the Bureau, stating whether or not Respondent has been in compliance with all the
conditions of probation. Respondent shall also submit such additional written reports and
verifications of actions requested by the Bureau. Should the final probation report not be made as
directed, the period of probation shall be extended until such time as the final report is made.

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3. Interview with Bureau Representative

As necessary, Respondent shall appear in person for scheduled interviews with the Bureau
Chief or other designated representative for the purpose of monitoring compliance with the terms
of this decision.

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4. Out-of-State Residence or Operation

Should Respondent leave California to reside or operate outside this state, Respondent must
notify the Bureau in writing of the dates of departure and return. Reporting in person may be
waived if the respondent moves out of the state. However, Respondent shall continue compliance
with other terms of probation to retain California licensure. Periods of residency, business
operation or employment outside California shall not reduce the probationary period.

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5. <u>Completion of Probation</u>

Upon successful completion of probation, Respondent's license will be fully restored.

6. Violation of Probation

Should Respondent violate probation in any respect, the Director of the department, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If an Accusation or Petition to Revoke Probation is filed against Respondent during probation, the Bureau shall have continuing jurisdiction until the matter is final, and the probation shall be extended until the matter is final.

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7. License Issued During Probation

8 Any license or registration issued to Respondent by the Bureau during the period of 9 probation shall be issued as a probationary license or registration and is subject to all the terms 10 and conditions set forth herein. Respondent must comply with terms and conditions herein and 11 demonstrate no cause for disciplinary action or denial of an application.

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8. Limitation of Duties

13 Respondent will not be approved by the Bureau as a designated managing funeral
14 director of a funeral establishment during the term of probation.

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9. Provision of Records

Respondent shall provide specific records for Bureau inspection as required.

10. Ethics

Within 30 days of the effective date of this decision, Respondent shall submit for prior Bureau approval a course of ethics which will be completed within the first year of probation.

ACCEPTANCE

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

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4/28/12 DATED: Respondent

JOSHUA H. ALPERT

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STIPULATED SETTLEMENT (AI 2011 486)

ENDORSEMENT

The foregoing Stipulated Settlement an	d Disciplinary Order is hereby respectfully		
submitted for consideration by the Director of Consumer Affairs.			
Dated: May 1, 2012	Respectfully submitted,		

SF2012401112 Stipulation.rtf

KAMALA D. HARRIS Attorney General of California DIANN ŠOKOLOFF Supervising Deputy Attorney General

Carol Poneo

CAROL ROMEO Deputy Attorney General Attorneys for Complainant

Exhibit A

Statement of Issues No. A1 2011 486

	U		
1	Kamala D. Harris		
2	Attorney General of California DIANN SOKOLOFF		
	Supervising Deputy Attorney General		
3	CAROL ROMEO Deputy Attorney General		
4	State Bar No. 124910 1515 Clay Street, 20th Floor		
5	P.O. Box 70550 Oakland, CA 94612-0550		
6	Telephone: (510) 622-2141 Facsimile: (510) 622-2270		
7	Attorneys for Complainant		
8	BEFORE THE DEPARTMENT OF CONSUMER AFFAIRS FOR THE CEMETERY AND FUNERAL BUREAU STATE OF CALIFORNIA		
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10	STATE OF C	ALIFUKNIA	
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12	In the Matter of the Statement of Issues Against:	Case No. A1 2011 486	
13	JOSHUA H. ALPERT	OT A TEMPENT OF LOCIED	
14	A.K.A. JOSHUA HARRIS KAUFMAN 820 Palm Avenue	STATEMENT OF ISSUES	
15	Redwood City, CA 94061		
16	Respondent.		
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18	Complainant alleges:		
19	PARTIES		
20	1. Lisa M. Moore (Complainant) brings this Statement of Issues solely in her official		
21	capacity as the Deputy Bureau Chief of the Cemetery and Funeral Bureau, Department of		
22	Consumer Affairs.		
23	2. On or about August 17, 2011, the Ce	metery and Funeral Bureau received an	
24	application for a Funeral Director from Joshua H. Alpert, also known as Joshua Harris Kaufman		
25	(Respondent). On or about August 15, 2011, Respondent certified under penalty of perjury to the		
26	truthfulness of all statements, answers, and representations in the application. The Bureau denied		
27	the application on December 2, 2011.		
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JURISDICTION

This Statement of Issues 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.

4. Section 7600 of the Code states:

"This chapter of the Business and Professions Code constitutes the chapter on funeral directors and embalmers. It may be cited as the Funeral Directors and Embalmers Law."

5. Section 7619 of the Code states:

9 "The applicant for a funeral director's license shall be at least 18 years of age, possess an
10 associate of arts or science degree, or the equivalent, or a higher level of education as recognized
11 by the Western Association of Colleges and Universities, or any other nationally recognized
12 accrediting body of colleges and universities, and shall not have committed acts or crimes
13 constituting grounds for denial of licensure under Section 480."

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6. Section 118 of the Code states:

15 "(a) The withdrawal of an application for a license after it has been filed with a board in the 16 department shall not, unless the board has consented in writing to such withdrawal, deprive the 17 board of its authority to institute or continue a proceeding against the applicant for the denial of 18 the license upon any ground provided by law or to enter an order denying the license upon any 19 such ground.

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
order of a court of law, or its surrender without the written consent of the board, shall not, during
any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
authority to institute or continue a disciplinary proceeding against the licensee upon any ground
provided by law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the licensee on any such ground.

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"(c) As used in this section, 'board' includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and 'license' includes 'certificate,' 'registration,' and 'permit.'"

STATUTORY PROVISIONS

7. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

8 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
9 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
10 board is permitted to take following the establishment of a conviction may be taken when the
11 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
12 an order granting probation is made suspending the imposition of sentence, irrespective of a
13 subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
benefit himself or herself or another, or substantially injure another.

"(3) (A) Done any act that if done by a licentiate of the business or profession in question,
would be grounds for suspension or revocation of license.

"(B) The board may deny a license pursuant to this subdivision only if the crime or act is
substantially related to the qualifications, functions, or duties of the business or profession for
which application is made.

"(b) Notwithstanding any other provision of this code, no person shall be denied a license
solely on the basis that he or she has been convicted of a felony if he or she has obtained a
certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
the rehabilitation of a person when considering the denial of a license under subdivision (a) of
Section 482.

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"(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license."

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8. Section 7686 of the Code states:

"The bureau may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found guilty 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, [FN1] and the bureau shall have all the powers granted therein."

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9. 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."

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10. Section 7709 of the Code states:

"A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to 15 be a conviction within the meaning of this article. The bureau may order the license suspended or 16 revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment 17 of conviction has been affirmed on appeal or when an order granting probation is made 18 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of 19 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter 20 a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information 21 or indictment." 22

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FIRST CAUSE FOR DISCIPLINARY ACTION (Conviction) (Bus. & Prof. Code §§ 480 and 7691)

11. Respondent has subjected his application for a Funeral Director License to denial
under Code sections 480 and 7691, in that he was convicted of a crime substantially related to the
qualifications, functions, or duties of a funeral director. Specifically, on or about May 26, 2005,
in the Supreme Court of the State of New York, County of Bronx, Case No. 90011/04, entitled

1	The People of the State of New York v. Joshua Kaufman, Respondent was convicted by his plea of
2	guilty of violating New York Penal Law Section 176.15 (insurance fraud in the fourth degree), a
3	class E felony. Respondent paid restitution in the amount of \$14,500.75 to Nationwide Insurance
4	Company and a certificate of relief from civil disabilities was issued by the Court. The Court
5	imposed a conditional discharge for three years requiring, among other things, that Respondent
5	obey all laws, avoid injurious or vicious habits, and refrain from consorting with disreputable
7	persons. The factual circumstances of the conviction are as follows:

a. In Bronx County, New York, acting in concert with a number of individuals 8 9 associated with Auto Sports, Inc., Respondent committed insurance fraud in that on or about between December 8, 2002 and February 2003, he wrongfully obtained or withheld property from 10 Nationwide Insurance Company valued in excess of \$1,000.00. 11

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: 14 1. Denying the application of Joshua H. Alpert for a Funeral Director License; and 2. Taking such other and further action as deemed necessary and proper.

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

SF2012401112 statement of issues.rtf

DATED:

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