KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General
DAVID E. BRICE
Deputy Attorney General
State Bar No. 269443
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-8010
Facsimile: (916) 327-8643
E-mail: David.Brice@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Petition to Revoke Probation Against: **THOMAS MATTHEW BARTEL** **6335 Sunrise Blvd.** **Citrus Heights, CA 95610** **Embalmer License No. EMB 8761** **Funeral Director License No. FDR 3616** Respondent.	Case No. A1 2014 150 **PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Lisa M. Moore (Complainant) brings this Petition to Revoke Probation 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 the Cemetery and Funeral Bureau.

2. On or about February 19, 2002, the Cemetery and Funeral Bureau issued Embalmer Number License EMB 8761 to Thomas Matthew Bartel (Respondent). The Embalmer License expired on February 29, 2016, and has not been renewed.

3. On or about May 16, 2013, the Cemetery and Funeral Bureau issued Funeral Director License Number FDR 3616 to Respondent. The Funeral Director License expired on May 31, 2016, and has not been renewed.

PRIOR DISCIPLINE

4. In a disciplinary action entitled "In the Matter of the Accusation Against Sinclair Family Cremation & Burial Service and Thomas Matthew Bartel," Case No. A1-2014-150, the Director of Consumer Affairs for the Cemetery and Funeral Bureau issued a decision, effective August 7, 2015, in which Respondent's Embalmer License and Funeral Director License were revoked. However, the revocations were stayed and Respondent's Embalmer License and Funeral Director License were placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

5. At all times after the effective date of Respondent's probation, Condition 6 stated:

> "**Violation of Probation.** Should Respondent Bartel violate probation in any respect, the director of the Department of Consumer Affairs, 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 Bartel during probation, the department shall have continuing jurisdiction until the matter is final, and the probation shall be extended until the matter is final."

6. Respondent's probation is subject to revocation, in that he violated probation as set forth below:

FIRST CAUSE TO REVOKE PROBATION

(Obey All Laws)

7. At all times after the effective date of Respondent's probation, Condition 1 stated:

> "**Obey All Laws.** Respondent Bartel 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 department."

8. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 1, referenced above. The facts and circumstances regarding this violation are as follows:

A. Respondent has not complied with conditions of probation 2, 8, 9, and 10, as set forth in paragraphs 9-16, below.

SECOND CAUSE TO REVOKE PROBATION

(Quarterly Reports)

9. At all times after the effective date of Respondent's probation, Condition 2 stated:

> "**Quarterly Reports.** Respondent Bartel shall submit quarterly declarations under penalty of perjury, in a format designated by the department, stating whether or not Respondent Bartel has been in compliance with all the conditions of probation. Respondent Bartel shall also submit such additional written reports and verifications of actions requested by the department. 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."

10. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 2, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about August 7, 2015, Respondent was sent a letter by his probation monitor and provided with enough blank quarterly reports for the entire term of probation. As of April 27, 2016, Respondent had not submitted any quarterly reports.

THIRD CAUSE TO REVOKE PROBATION

(Cost Recovery Payment Plan)

11. At all times after the effective date of Respondent's probation, Condition 8 stated:

> "**Cost Recovery.** Respondent Bartel shall pay the department's actual and reasonable costs of investigation and enforcement of this matter in the amount of $7,375.54. Said amount shall be paid within twenty-four (24) months. Probation shall not terminate until full payment has been made. Respondent Bartel's license shall not be renewed until the cost recovery has been paid in full or Respondent is otherwise in compliance with a payment plan approved by the department."

///
///
///

12. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 8, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about January 4, 2016, Respondent was provided with a payment plan for cost recovery. Respondent did not make any payments. On or about April 21, 2016, Respondent was provided with a second payment plan. Respondent did not make any payments. Respondent's licenses remain expired due to his failure to pay cost recovery or become compliant with a payment plan.

FOURTH CAUSE TO REVOKE PROBATION

(Limitation of Duties)

13. At all times after the effective date of Respondent's probation, Condition 9 stated:

> "**Limitation of Duties.** Respondent Bartel shall not serve as a designated manager of any funeral establishment during the term of probation and Respondent Bartel shall not serve as a supervising embalmer to train apprentice embalmers during the term of probation – including the two apprentice embalmers that are currently apprenticing under him. Within 30 days from the effective date of this decision, Respondent Bartel shall submit to the Department, for prior approval, a plan to implement this restriction. Respondent Bartel shall submit proof satisfactory to the department of this term of probation."

14. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 9, referenced above. The facts and circumstances regarding this violation are as follows:

A. The effective date of the decision was August 7, 2015. As of April 27, 2016, Respondent had not submitted a plan to the department to implement the restriction on his duties.

FIFTH CAUSE TO REVOKE PROBATION

(Ethics)

15. At all times after the effective date of Respondent's probation, Condition 10 stated:

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

///

///

16. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 10, referenced above. The facts and circumstances regarding this violation are as follows:

A. The effective date of the decision was August 7, 2015. As of April 27, 2016, Respondent had not submitted an ethics course to the department for prior approval.

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 the probation that was granted by the Cemetery and Funeral Bureau in Case No. A1-2014-150 and imposing the disciplinary order that was stayed thereby revoking Embalmer License No. EMB 8761 and Funeral Director License No. FDR 3616 issued to Thomas Matthew Bartel;

2. Revoking or suspending Embalmer License No. EMB 8761, issued to Thomas Matthew Bartel;

3. Revoking or suspending Funeral Director License No. FDR 3616, issued to Thomas Matthew Bartel.

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

DATED: July 19, 2016

Lisa M. Moore

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

SA2016102114
12338175.doc