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

In the Matter of the Accusation Against: LANE FAMILY FUNERAL HOME, and PADRAIC C. LANE, Funeral Establishment License No. FD 1777, And Funeral Director No. FDR 913, Respondents.	Case Nos. A1 2012 102 OAH No. 2012100868

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted as the Decision of the Director of Consumer Affairs in the above-entitled matter.

This Decision shall become effective on December 16, 2013

IT IS SO ORDERED NOV 14 2013.

Doreathea Johnson

DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

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

In the Matter of the Accusation Against: LANE FAMILY FUNERAL HOME, and PADRAIC C. LANE, Funeral Establishment License No. FD 1777, and Funeral Director No. FDR 913.	Agency Case No. A1 2012 102 OAH Case No. 2012100868

PROPOSED DECISION

Daniel Juárez, Administrative Law Judge, Office of Administrative Hearings, heard this matter on August 21, 2013, in Los Angeles, California.

William D. Gardner, Deputy Attorney General, represented Lisa M. Moore (Complainant), Bureau Chief of the Cemetery and Funeral Bureau (Bureau).

The Law Offices of Zinder & Koch, and Jeffrey E. Zinder, Esq., represented Lane Family Funeral Home (Respondent LFFH) and Padraic C. Lane (Respondent Lane).

The parties submitted the matter for decision on August 21, 2013.

STATEMENT OF THE CASE

Complainant seeks the revocation of Respondents' funeral establishment and funeral director licenses for misrepresentation and fraud in the conduct of business, false and misleading advertising, and failing to provide printed price lists. Respondents deny the charges and argue that, at most, they committed errors that do not warrant revocation of their licenses.

FACTUAL FINDINGS

1. The Bureau issued funeral director license number FDR 913 to Respondent Lane on June 24, 1997; it expires on June 30, 2014, unless renewed.

2. The Bureau issued funeral establishment license number FD 1777 to Respondent LFFH, with Respondent Lane as "Owner" and "Manager" on January 7, 2003; it expires on January 31, 2014, unless renewed.

3. Complainant filed the Accusation on or about September 10, 2012. Respondents filed a Notice of Defense on or about October 3, 2012. Complainant filed the First Amended Accusation on or about May 9, 2013. Respondents were deemed to controvert the First Amended Accusation, pursuant to Government Code section 11507.

4. Respondent LFFH is in Delano, California. In 2011, Respondents handled the funeral services of a decedent identified herein as "M.C." John Stover (Stover), M.C.'s nephew-in-law, entered into an agreement with Respondent LFFH on January 3, 2011, for M.C.'s funeral services.

5. As part of that agreement, Respondents charged and Stover paid, among other things, $695 for a cloth-covered casket, $650 in transportation charges to Lancaster, California, $1,000 in cemetery costs, and an $8.50 "DCA [Department of Consumer Affairs] Fee."

6. Respondent's casket price list, effective January 1, 2011, listed the cloth-covered casket at $495. Respondents overcharged Stover $200 for M.C.'s casket.

7. Respondents' general price list, effective January 1, 2011, listed a base transportation charge for 50 miles of one-way transportation and a $2 charge for every mile over 50 miles. The distance between Respondent LFFH in Delano and M.C.'s place of burial in Lancaster is approximately 123 miles.[1] Subtracting the 50 miles covered by the base transportation charge, Respondents should have charged Stover for an additional 73 miles, at $2 per mile, for a total transportation charge of $146. Respondents overcharged Stover $504 for M.C.'s transportation.

8. On January 12, 2011, Respondents paid $568.26 to Joshua Memorial Park (M.C.'s place of burial) for a bell liner for M.C.'s burial. Albert Keene (Keene) paid for the bell liner on behalf of Respondent LFFH. Keene was a part-time funeral arranger for Respondent LFFH from September 2010 to June 2011, but he was also M.C.'s great nephew. Previously, M.C. had paid for all of her cemetery costs with the exception of the bell liner. Respondents were aware of this fact. By charging Stover $1,000, Respondents overcharged Stover $431.74 for M.C.'s cemetery costs.

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[1] The ALJ rounded the mileage figure down to the nearest mile.

9. On January 3, 2011, M.C's last residence, the Glenwood Gardens Skilled Care Center (Glenwood), sent a $763.22 check to Respondents to be applied toward the cost of M.C.'s funeral services. Respondents deposited the check into Respondent LFFH's bank account on January 5, 2011, but they did not inform Stover of the payment, did not apply it toward M.C.'s funeral expenses, and did not refund it to Stover. Respondent Lane testified that he could not account for why the check was deposited but not applied toward M.C.'s expenses.

10. Regarding the $8.50 DCA Fee, Respondents conceded that they have charged the same fee to all customers beginning in 2009, believing the DCA required such a fee. Cemeteries and crematoriums collect the DCA fee for each burial or cremation and remit the fee to the DCA on a quarterly basis. Respondent LFFH is not a cemetery or a crematorium. Respondents collected the DCA fee from Stover and did not remit it to the DCA. Respondent Lane described his collection of the DCA fee as a "mistake."

11. Respondent Lane's declaration, dated April 24, 2012, contained several admissions. Respondent Lane wrote, "I overcharged the family [M.C.'s family] $200.00 for the cloth covered casket. It should have been $495.00[.] I overcharged the family transportation costs to Lancaster, CA[.] There is also an overcharge to the family with regards to the cemetery fee's [*sic*] [.] I also charged the DCA fee of $8.50[.]"

12. In explaining why he overcharged Stover, Respondent Lane explained that he did so at Keene's, not Stover's, urging. Respondent Lane explained that he initially believed Keene, not Stover, was in charge of M.C.'s funeral arrangements. Keene signed a Respondent LFFH form, dated January 3, 2011, attesting that he was given or shown Respondent's general price list and casket price list, both effective January 1, 2011. Keene further signed an "Authorization for Disposition with or without Embalming," dated January 2, 2011, asserting that he had the legal right to control the disposition of M.C.'s remains. Respondents asserted that, based on these facts, and Keene's interaction with Respondents, Respondents believed it was Keene who was paying for M.C's funeral expenses.

13. According to Respondent Lane, Keene discussed the pricing of M.C.'s funeral services with Respondents and Keene insisted that Respondents increase the prices of certain goods and services. Thereafter however, Keene gave the funeral services contract to his uncle, Stover, and Stover then paid on the agreement. Respondent Lane became aware of this fact just before or at the time Stover paid on the agreement.

14. In his declaration, dated March 11, 2013, Stover declared that he made M.C.'s arrangements "for the goods and services that were to be provided by [Respondent LFFH] with respect [M.C.'s] funeral. I signed the contract with [Respondent LFFH] for those goods and services. The total price of contract, including all goods and services, was $4,424.03, which I paid by check to the order of [Respondent LFFH]."[2]

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[2] Complainant offered the declaration of John Stover at hearing after noticing Respondents of that intention, in accordance with Government Code section 11514.

15. In his declaration, Respondent Lane wrote, Keene "suggested that we 'bump up the amount.' The only 'bump up' he suggested was the casket, cemetery and distance fee. I did not agree with [Keene], but carried out his unusual request." At hearing, Respondent Lane explained that, while employed by Respondents, Keene had long suggested that Respondents increase their prices overall and that Keene took the opportunity of M.C.'s passing to urge price increases for M.C.'s funeral expenses. Respondents argued at hearing that the increased prices were not in violation of the law because the increases came at the urging of a customer (Keene) who was aware of Respondents' price lists. The evidence did not establish that Respondents showed or provided their price lists to Stover after knowing that Stover was paying for M.C.'s funeral expenses or at any time.

16. Keene did not testify. In February 2012, Keene filed a complaint with the Bureau alleging, among other things, Respondents' violations of law with respect to M.C.'s funeral expenses.

17. Respondents' explanation regarding the increased prices was not credible. It is not believable that a customer would insist on paying more than the listed price. Moreover, there was no evidence that Stover, as the person responsible for paying M.C.'s funeral expenses, agreed to any price increases. Respondents failed to secure any such understanding from Stover upon his payment.

18. According to Respondent Lane, Keene left Respondent LFFH on July 5, 2011, on bad terms. Respondent Lane had given Keene a gasoline credit card for use while employed and Keene misused it and kept it for his personal use. Respondent Lane asserted that he filed a police report against Keene for the credit card's misuse. Respondents provided no persuasive evidence of that assertion. Respondents believe Keene filed a complaint against Respondents with the Bureau in retaliation for his complaint to the police. The evidence was insufficient to establish a retaliatory basis for Keene's complaint to the Bureau or to establish that the allegations in that complaint, resulting in the instant action, were false.

19. Complainant incurred $7,072.50 in prosecution costs from the Attorney General's office and $4,158.20 in investigation costs from the Bureau's Enforcement Unit. These costs were reasonable.

20. In his declaration certifying the prosecution costs, Complainant's counsel declared that the prosecution costs totaled $7,077.50; that figure was deemed a typographical error.

21. In 2007, Respondents suffered Bureau-imposed license discipline. At hearing, Respondents conceded the disciplinary action and resultant probation. Complainant alleged

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Respondents did not request to cross-examine Stover; therefore, Stover's declaration was admitted into the record as direct evidence. (Gov. Code, § 11514, subd. (a).)

the general facts regarding that license discipline in the Accusation. The general facts with regard to that disciplinary matter are set forth *post*, as Complainant alleged, verbatim:

"On or about August 22, 2007, the Bureau issued a decision and order *In the Matter of the Accusation Against Lane Family Funeral Home and Padraic C. Lane*, OAH Case No. L2007040296. Pursuant to that decision, Respondent's Funeral Home Establishment License No. FD 1777 and Funeral Director License No. FDR 913 were placed on probation for a period of three (3) years due to the following violations: (1) diversion of nearly $20,000 in pre-need trust funds; (2) substantially-related felony criminal conviction for violating pre-need trust agreements; (3) fraudulent conduct/misrepresentation in the practice of funeral directing; (4) failure to exercise proper supervision and control over funeral establishment; and (5) unprofessional, negligent and/or incompetent conduct in the practice of funeral directing. The Decision and Order became effective on September 21, 2007, and is not appealable."

22. Complainant alleged that the Bureau issued citations against Respondent LFFH in September 2009, July 2011, and May 2012, for, among other things, having the price ranges for caskets on Respondents' price list not matching the actual casket prices. However, there was no evidence establishing the citations.

LEGAL CONCLUSIONS

1. Complainant must prove her case by clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) Clear and convincing evidence means the evidence is "so clear as to leave no substantial doubt" and is "sufficiently strong to command the unhesitating assent of every reasonable mind." (*Mathieu v. Norrell Corporation* (2004) 115 Cal.App.4th 1174, 1190 [citing *Mock v. Michigan Millers Mutual Ins. Co.* (1992) 4 Cal.App.4th 306, 332-333].)

2. Business and Professions Code section 7692 provides that, "Misrepresentation or fraud in the conduct of the business or the profession of a funeral director . . . constitutes a ground for disciplinary action."

3. Business and Professions Code section 7693 provides that, "False or misleading advertising as a funeral establishment [or] funeral director . . . constitutes a ground for disciplinary action."

4. Business and Professions Code section 7703 provides that, "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."

5. Business and Professions Code section 7685, subdivision (a)(1), provides that, "Every funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written or printed list containing, but not necessarily

limited to, the price for professional services offered, which may include the funeral director's services, the preparation of the body, the use of facilities, and the use of automotive equipment. All services included in this price or prices shall be enumerated. The funeral director shall also provide a statement on that list that gives the price range for all caskets offered for sale."

6. Respondents acts, as set forth in the Factual Findings, *ante*, are substantially related to the qualifications, functions, and duties of a licensed funeral establishment and licensed funeral director. (Cal. Code Regs., tit. 16, § 1252.)

7. Respondents' overcharging of Stover for M.C.'s casket, transportation, and cemetery costs constitutes misrepresentation and fraud in the conduct of Respondents' business and profession. The fact that Respondent Lane gave price lists to Keene is unavailing where it was Stover who was the financially responsible person. Respondents may have begun dealing with Keene, but Stover's role as the payer for M.C.'s goods and services was known to Respondent before he paid and it was Respondents' responsibility to inform Stover of the actual prices for each good and service, particularly since Respondents diverged from their advertised prices and increased their prices significantly. Respondents misrepresented the need to collect the DCA fee. Respondents' claim of ignorance regarding the fee is not well-taken, as ignorance of the law is not a valid defense. Respondents' deposit of the Glenwood check without applying it to M.C.'s expenses, refunding it to Stover, or returning it to Glenwood also constitutes the misrepresentation of the funeral charges and constitutes fraud.

8. Cause exists to discipline Respondent Lane's funeral director license for misrepresentation and fraud in the conduct of the business and profession of a funeral director, pursuant to Business and Professions Code section 7692, as set forth in Factual Findings 1, 2-18, and Legal Conclusions 1, 2, 6, and 7.

9. Respondents' charging of greater amounts than those listed in the price lists for M.C.'s casket and transportation constitute false and misleading advertising.

10. Cause exists to discipline Respondents' funeral establishment and funeral director licenses for false and misleading advertising, pursuant to Business and Professions Code section 7693, as set forth in Factual Findings 1-7, 11-18, and Legal Conclusions 1, 3, and 6-9.

11. Respondents' failure to provide Stover with Respondent LFFH's price lists, before, or at least upon, Stover's payment for M.C.'s funeral expenses, constitutes a violation of Business and Professions Code section 7685, subdivision (a)(1).

12. Cause exists to discipline Respondents' funeral establishment and funeral director licenses for failing to provide required price lists, pursuant to Business and Professions Code section 7685, subdivision (a)(1), as set forth in Factual Findings 1-18, and Legal Conclusions 1, 5-7, 9, and 11.

13. Cause exists to discipline Respondents' funeral establishment and funeral director licenses for violating the Funeral Directors and Embalmer's Law, pursuant to Business and Professions Code section 7703, as set forth in Factual Findings 1-18, and Legal Conclusions 1-12.

14. Once cause for discipline is established, it is still necessary to assess what type of discipline is warranted. "The objective of an administrative proceeding [like this one] . . . is to protect the public; to determine whether a licensee has exercised his privilege in derogation of the public interest. 'Such proceedings are not conducted for the primary purpose of punishing an individual.'" (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164 [citing *Cornell v. Reilly* (1954) 127 Cal.App.2d 178, 184.]) The question here is whether the public is at risk by allowing Respondents to continue to conduct business as a licensed funeral establishment and a licensed funeral director. The record here establishes that the public is at risk if the Bureau continues to license Respondents.

15. Respondents' acts are severe, demonstrating fraud, misrepresentation, and misleading conduct while assisting persons with funeral expenses. Respondents failed to admit to these acts. Their defenses were specious. Respondents' licenses were on probation from approximately September 2007 to September 2010 for, among other things, unprofessional conduct in funeral directing. Yet, Respondents engaged in the conduct found herein just approximately four months after that probation terminated. Assessed altogether, the evidence does not support a conclusion that the imposition of probation would serve its purpose, as its previous imposition was unsuccessful in impressing upon Respondents the need to conduct business lawfully. The public's safety and welfare can therefore only be achieved by revocation.

16. Business and Professions Code section 125.3, subdivision (a), provides that an administrative law judge may 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.

17. Respondents provided no evidence of their inability to pay the alleged costs. There was no other evidence to support a reduction in costs. Complainant's reasonable costs of investigation and enforcement are therefore $11,230.70.

18. Cause exists to award the Bureau its investigative and enforcement costs of $11,230.70, pursuant to Business and Professions Code section 125.3, as set forth in Factual Findings 1-20, and Legal Conclusions 1-17.

ORDERS

1(a). Respondent Lane Family Funeral Home's funeral establishment license number FD 1777 is revoked.

1(b). Respondent Padraic C. Lane's funeral director license number FDR 913 is revoked.

2. Respondents Padraic C. Lane and Lane Family Funeral Home shall pay the Bureau's actual and reasonable costs of investigation and enforcement of this matter in the amount of $11,230.70. Respondents are jointly and severally liable. Said amount shall be paid within 30 days of the effective date of this Decision, unless the Bureau, in its discretion, allows for a payment plan. If the Bureau allows for a payment plan, Respondent shall pay the Bureau's total costs of investigation and enforcement in accordance with that plan.

Dated: September 9, 2013

DANIEL JUAREZ
Administrative Law Judge
Office of Administrative Hearings

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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: **LANE FAMILY FUNERAL HOME;** **PADRAIC C. LANE** **1303 Glenwood Street** **Delano, CA 93215** **Funeral Establishment License No. FD 1777,** **and** **PADRAIC C. LANE** **1303 Glenwood Street** **Delano, CA 93215** **Funeral Director No. FDR 913** Respondents.	Case No. A1 2012 102 **FIRST AMENDED** **ACCUSATION**

Complainant alleges:

PARTIES

1. Lisa M. Moore (Complainant) brings this First Amended 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 (continued...)

2. On or about January 7, 2003, the Cemetery and Funeral Bureau issued Funeral Establishment License Number FD 1777 to Lane Family Funeral Home; Padraic C. Lane (Respondents). The Funeral Establishment License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2014, unless renewed.

3. On or about June 24, 1997, the Cemetery and Funeral Bureau issued Funeral Director Number FDR 913 to Padraic C. Lane (Respondents). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2013, 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 118, subdivision (b), of the Code provides that the suspension, expiration, surrender and/or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Section 7685, subdivision (a)(1), of the Code states:

"Every funeral director shall provide to any person, upon beginning discussion of prices or of the funeral goods and services offered, a written or printed list containing, but not necessarily limited to, the price for professional services offered, which may include the funeral director's services, the preparation of the body, the use of facilities, and the use of automotive equipment. All services included in this price or prices shall be enumerated. The funeral director shall also provide a statement on that list that gives the price range for all caskets offered for sale."

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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.

7. 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 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, and the bureau shall have all the powers granted therein."

8. Section 7692 of the Code 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."

9. Section 7693 of the Code states:

"False or misleading advertising as a funeral establishment, funeral director, or embalmer constitutes a ground for disciplinary action."

10. Section 7703 of the Code 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."

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Director 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.

FIRST CAUSE FOR DISCIPLINE

(Misrepresentation/Fraud in Conduct of Business)

12. Respondents Lane Family Funeral Home and Padraic C. Lane (collectively, "Respondents") are subject to disciplinary action under section 7692 in that Respondents engaged in misrepresentation and/or fraud in providing funeral services. The circumstances are as follows:

a. On or about January 3, 2011, consumer J.S. entered into a contract with Respondents wherein Respondents were to provide funeral services and a casket for decedent MC. Pursuant to

the Casket Price List (CPL) being used by Respondents at that time, the advertised price for a "cloth covered" casket was $495.00. However, Respondents charged consumer J.S. $695.00 for a cloth covered casket, representing an overcharge of $200.00.

b. On or about January 3, 2011, the General Price List (GPL) being used by Respondents stated that transportation of the casket from the funeral home to the gravesite was included in the base charge for funeral services up to fifty (50) miles and that thereafter the charge was $2.00 per mile. With respect to decedent MC, Respondents transported the casket a total of 123.36 miles, meaning that transportation charges to consumer J.S., above and beyond the base charge, should have been $146.72. However, Respondents charged consumer J.S. a total of $650.00 for transportation services, representing an overcharge of $503.28.

c. Decedent MC was buried at Joshua Memorial Park cemetery (Cemetery) in Lancaster, California. Respondents charged consumer J.S. $1,000.00 for "cemetery costs" associated with the decedent's interment at the Cemetery. However, except for a "bell liner" which was purchased by Respondents at a price of $568.26, all cemetery costs had been paid directly to the Cemetery by the family of decedent M.C. Accordingly, Respondents overcharged consumer J.S. by $431.74 for "cemetery costs."

d. Respondents charged consumer J.S. a total of $4,424.03 for the services it provided in connection with decedent MC's funeral. The entire $4,424.03 was paid to Respondents via check from consumer J.S. However, at the direction of the family, on or around January 3, 2011, Glenwood Gardens Skilled Care Center (Glenwood) provided a check to Respondents in the amount of $763.22 which was to be applied toward the cost of decedent MC's funeral services. The check from Glenwood was cashed by Respondents on or around January 5, 2011, but the $763.22 was never applied to the cost of MC's funeral services, creating a windfall to Respondents and overcharge to consumer J.S.

e. Between January 1, 2009, and April 24, 2012, Respondents unlawfully collected an $8.50 Department of Consumer Affairs (DCA) fee in connection with at least 178 funeral services, including those provided to decedent MC. The fee at issue is to be collected by cemeteries and crematoriums, per burial or cremation, and paid to DCA on a quarterly basis.

Respondents are neither a cemetery nor a crematorium, yet they repeatedly collected this fee from their customers and failed to remit it to DCA.

SECOND CAUSE FOR DISCIPLINE

(False/Misleading Advertising)

13. Respondents are subject to disciplinary action under section 7693 in that Respondents engaged in false and/or misleading advertising. Complainant refers to the allegations set forth in paragraph 10, subparagraphs (a) and (b) inclusive, above, and herein incorporates by reference as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Failure to Provide Written/Printed Price List)

14. Respondents are subject to disciplinary action under section 7703, in conjunction with section 7685, subdivision (a)(1), in that Respondents violated the Funeral Directors and Embalmers Law (Bus. & Prof. Code §§ 7600, et seq.) by failing to provide consumer J.S. with a written or printed list containing the prices for the goods and services being offered in connection with the funeral service of decedent M.C. Respondents further violated the Funeral Directors and Embalmers Law by failing to provide consumer J.S. with a written or printed list containing the price range for all caskets being offered for sale with respect to the funeral service of decedent M.C.

DISCIPLINE CONSIDERATIONS

15. To determine the degree of discipline, Complainant alleges that:

a. On or about August 22, 2007, the Bureau issued a decision and order *In the Matter of the Accusation Against Lane Family Funeral Home and Padraic C. Lane*, OAH Case No. L2007040296. Pursuant to that decision, Respondent's Funeral Home Establishment License No. FD 1777 and Funeral Director License No. FDR 913 were placed on probation for a period of three (3) years due to the following violations: (1) diversion of nearly $20,000 in pre-need trust funds; (2) substantially-related felony criminal conviction for violating pre-need trust agreements; (3) fraudulent conduct/misrepresentation in the practice of funeral directing; (4) failure to exercise proper supervision and control over funeral establishment; and (5) unprofessional,

negligent and/or incompetent conduct in the practice of funeral directing. The Decision and Order became effective on September 21, 2007, and is not appealable.

b. On or about May 24, 2012, the Bureau issued Citation No. IC 2012 250 to Respondent Lane Family Funeral Home for violating California Code of Regulations, title 16, section 1258.1 [casket price lists and price ranges]. Specifically, the Citation alleges that during a February 8, 2012, inspection of the funeral home by a Bureau field representative the price ranges for the adult casket, infant/child casket and alternative containers offered on the General Price List (GPL) failed to match the actual caskets and alternative containers offered for sale on the Casket Price List (CPL). The Citation, which imposed a $750.00 fine, became final on June 23, 2012, and is not appealable. The fine was paid on June 28, 2012.

c. On or about July 15, 2011, the Bureau issued Citation No. IC 2011 293 to Respondent Lane Family Funeral Home for violating California Code of Regulations, title 16, section 1258.1 [casket price lists and price ranges]. Specifically, the Citation alleges that during a March 2, 2011, inspection of the funeral home by a Bureau field representative the price range for the adult caskets offered on the GPL failed to match the actual prices of the adult caskets for sale on the CPL. The Citation, which imposed the minimum fine of $501.00 fine, became final on August 14, 2011, and is not appealable.

d. On or about September 4, 2009, the Bureau issued Citation No. IC 2009 84 to Respondent Lane Family Funeral Home for violating California Code of Regulations, title 16, section 1258.1 [casket price lists and price ranges]. Specifically, the Citation alleges that during a June 22, 2009, inspection of the funeral home by a Bureau field representative the price ranges for caskets on the GPL failed to match the actual prices of the caskets for sale on the CPL. The Citation became final on October 4, 2009, and is not appealable. No fine was assessed.

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 1777, issued to Lane Family Funeral Home; Padraic C. Lane;

2. Revoking or suspending Funeral Director License Number FDR 913, issued to Padraic C. Lane;

3. Ordering Padraic C. Lane 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. Taking such other and further action as deemed necessary and proper.

DATED: May 9, 2013

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

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