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8 **BEFORE THE**
9 **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 2013 425

13 **PETE JACOB LARA**
14 c/o Halley -Olsen-Murphy
15 44831 Cedar Avenue
Lancaster, CA 93534

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

16 **Certificate of Registration as an Apprentice**
17 **Embalmer No. AE 13316**

18 Respondent.

19
20 **FINDINGS OF FACT**

21 1. On May 23, 2014, Complainant Lisa M. Moore, in her official capacity as the Bureau
22 Chief of the Cemetery and Funeral Bureau (Bureau), Department of Consumer Affairs,¹ filed
23 Accusation No. A1 2013 425 against Pete Jacob Lara (Respondent) before the Director of
24 Consumer Affairs. (Accusation attached as Exhibit A.)

25 ¹ Effective January 1, 1996, the Department of Consumer Affairs succeeded to, and
26 was vested with, all the duties, powers, purpose, responsibilities and jurisdiction of the
27 Cemetery Board and the Board of Funeral Directors and Embalmers, and consolidated the
28 functions into the Cemetery and Funeral Programs. Effective January 1, 2001, the regulatory
agency is designated as the Cemetery and Funeral Bureau.

1 2. On or about March 11, 2010, the Bureau issued Certificate of Registration as an
2 Apprentice Embalmer No. AE 13316 to Respondent. The Certificate of Registration as an
3 Apprentice Embalmer was in full force and effect at all times relevant to the charges brought in
4 Accusation No. A1 2013 425 and will expire on March 11, 2016, unless renewed.

5 3. On May 29, 2014, Respondent was served by Certified and First Class Mail copies of
6 the Accusation No. A1 2013 425, Statement to Respondent, Notice of Defense, Request for
7 Discovery, and Discovery Statutes (Gov. Code, §§ 11507.5, 11507.6, and 11507.7) at
8 Respondent's address of record which, pursuant to California Code of Regulations, title 16,
9 section 1203, is required to be reported and maintained with the Bureau. Respondent's address of
10 record was and is: c/o Halley-Olsen-Murphy, 44831 Cedar Avenue, Lancaster, CA 93534.

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c), and/or Business and Professions Code section
13 124.

14 5. On or about June 4, 2014, the aforementioned documents that were sent by first class
15 mail were returned by the manager of Halley-Olsen-Murphy Funerals & Cremations located at
16 44831 North Cedar Ave., Lancaster, CA 93534, with a note indicating "We do not have Mr.
17 Lara's forwarding address." The address on the documents was the same as the address on file
18 with the Bureau. Respondent failed to maintain an updated address with the Bureau and the
19 Bureau has made attempts to serve the Respondent at the address on file. Respondent has not
20 made himself available for service and therefore has not availed himself of his right to file a
21 notice of defense and appear at hearing.

22 6. On or about June 5, 2013, a signed certified mail receipt for the aforementioned
23 documents sent to c/o Halley-Olsen-Murphy, 44831 Cedar Avenue, Lancaster, CA 93534, was
24 returned, showing that the documents had been received.

25 7. On or about June 5, 2014, the aforementioned documents that were sent by certified
26 mail were returned by the manager of Halley-Olsen-Murphy Funerals & Cremations located at
27 44831 North Cedar Ave., Lancaster, CA 93534, with a note on the envelope indicating "No
28 Forwarding Address for Mr. Lara." The address on the documents was the same as the address

1 on file with the Bureau. Respondent failed to maintain an updated address with the Bureau and
2 the Bureau has made attempts to serve the Respondent at the address on file. Respondent has not
3 made himself available for service and therefore has not availed himself of his right to file a
4 notice of defense and appear at hearing.

5 8. Government Code section 11506 states, in pertinent part:

6 (c) The respondent shall be entitled to a hearing on the merits if the respondent
7 files a notice of defense, and the notice shall be deemed a specific denial of all parts
8 of the accusation not expressly admitted. Failure to file a notice of defense shall
9 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
10 may nevertheless grant a hearing.

11 9. Respondent failed to file a Notice of Defense within 15 days after service upon him
12 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. A1
13 2013 425.

14 10. California Government Code section 11520 states, in pertinent part:

15 (a) If the respondent either fails to file a notice of defense or to appear at the
16 hearing, the agency may take action based upon the respondent's express admissions
17 or upon other evidence and affidavits may be used as evidence without any notice to
18 respondent.

19 11. Pursuant to its authority under Government Code section 11520, the Director finds
20 Respondent is in default. The Director will take action without further hearing and, based on the
21 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
22 taking official notice of all the investigatory reports, exhibits and statements contained therein on
23 file at the Director's offices regarding the allegations contained in Accusation No. A1 2013 425,
24 finds that the charges and allegations in Accusation No. A1 2013 425, are separately and
25 severally, found to be true and correct by clear and convincing evidence.

26 12. Taking official notice of its own internal records, pursuant to Business and
27 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
28 and Enforcement are \$1,947.50 as of August 7, 2014.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Pete Jacob Lara has subjected his
3 Certificate of Registration as an Apprentice Embalmer No. AE 13316 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Director of Consumer Affairs is authorized to revoke Respondent's Certificate of
6 Registration as an Apprentice Embalmer based upon the following violations alleged in the
7 Accusation which are supported by the evidence contained in the Default Decision Evidence
8 Packet in this case:

9 a. Business and Professions Code sections 490, 7668, subdivision (i), and 7691, in
10 conjunction with California Code of Regulations, title 16, section 1252, in that Respondent was
11 convicted of crimes substantially related to the qualifications, functions, and duties of an
12 apprentice embalmer and that Respondent violated a state law affecting the handling, custody,
13 care or transportation of human remains, as follows:

14 i. On November 19, 2013, in *People v. Pete Jacob Lara* (Super. Ct. L.A.
15 County, 2013, No. MA061206), Respondent was convicted of one felony count of possession of a
16 controlled substance (Health & Saf. Code, § 11370, subd. (a)), one felony count of unlawful
17 removal or possession of dental gold (Health & Saf. Code, § 7051.5), and five felony counts of
18 burglary in the second degree (Pen. Code, § 459).

19 b. Business and Professions Code sections 7668, subdivision (f), and 7704, in
20 conjunction with California Code of Regulations, title 16, section 1252, in that Respondent
21 violated provisions of the Funeral Directors and Embalmers Law.

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

It is so ORDERED OCT 13 2014

51586916.DOC
DOJ-Matter ID:LA2014511457.

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Exhibit A

Accusation

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

11 In the Matter of the Accusation Against:

Case No. A1 2013 425

12 **PETE JACOB LARA**
13 c/o Halley-Olsen-Murphy
14 44831 Cedar Ave.
15 Lancaster, CA 93534

ACCUSATION

15 Certificate of Registration as an Apprentice
16 Embalmer No. AE 13316

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Lisa M. Moore (Complainant) brings this Accusation solely in her official capacity as
22 the Bureau Chief of the Cemetery and Funeral Bureau (Bureau), Department of Consumer
23 Affairs.¹
24

25
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.

2. On or about March 11, 2010, the Bureau issued Certificate of Registration as an Apprentice Embalmer No. AE 13316 to Pete Jacob Lara (Respondent). The Certificate of Registration as an Apprentice Embalmer was in full force and effect at all times relevant to the charges brought herein and will expire on March 11, 2016.

JURISDICTION

3. This Accusation is brought before the Bureau under the authority of the following laws.

4. Business and Professions Code section 118, subdivision (b),² provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 7686 provides, in pertinent part, that the Bureau may suspend or revoke licenses if the licensee has been found guilty by the Bureau of any of the acts or omissions constituting grounds for disciplinary action.

STATUTORY PROVISIONS

6. Section 490 states, in pertinent part:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

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

² All further statutory references are to the Business and Professions Code unless otherwise indicated.

1 7. Section 493 states:

2 Notwithstanding any other provision of law, in a proceeding conducted by
3 a board within the department pursuant to law to deny an application for a license or
4 to suspend or revoke a license or otherwise take disciplinary action against a person
5 who holds a license, upon the ground that the applicant or the licensee has been
6 convicted of a crime substantially related to the qualifications, functions, and duties of
7 the licensee in question, the record of conviction of the crime shall be conclusive
8 evidence of the fact that the conviction occurred, but only of that fact, and the board
9 may inquire into the circumstances surrounding the commission of the crime in order
10 to fix the degree of discipline or to determine if the conviction is substantially related
11 to the qualifications, functions, and duties of the licensee in question.

12 As used in this section, "license" includes "certificate," "permit,"
13 "authority," and "registration."

14 8. Section 7668 states, in pertinent part:

15 The bureau may suspend or revoke a certificate of apprenticeship, after
16 notice and upon complaint and hearing in accordance with the provisions of Article 6,
17 if the apprentice is guilty of any of the following acts or omissions:

18 ...

19 (f) Violation of any provision of this chapter [Funeral Directors and
20 Embalmers Law] or any rule or regulation of the bureau.

21 ...

22 (i) Conviction of a crime substantially related to the qualifications,
23 functions and duties of an apprentice, in which case the record of conviction, or a
24 certified copy, shall be conclusive evidence of the conviction.

25 9. Section 7691 states, "Conviction of a crime substantially related to the qualifications,
26 functions and duties of the license holder in question constitutes a ground for disciplinary action.
27 The record of conviction, or a certified copy thereof, shall be conclusive evidence of such
28 conviction."

29 10. Section 7704 states, "Violation of any state law or municipal or county ordinance or
30 regulation affecting the handling, custody, care or transportation of human remains constitutes a
31 ground for disciplinary action."

32 11. Section 7709 states, in pertinent part:

33 A plea or verdict of guilty or a conviction following a plea of nolo
34 contendere is deemed to be a conviction within the meaning of this article. The
35 bureau may order the license suspended or revoked, or may decline to issue a license,
36 when the time for appeal has elapsed, or the judgment of conviction has been affirmed
37 on appeal or when an order granting probation is made suspending the imposition of

1 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
2 the Penal Code

3 **REGULATORY PROVISION**

4 12. California Code of Regulations, title 16, section 1252, states:

5 For the purposes of denial, suspension, or revocation of a license pursuant
6 to Division 1.5 (commencing with Section 475) of the Business and Professions
7 Code, a crime or act shall be considered to be substantially related to the
8 qualifications, functions or duties of a licensed funeral establishment, licensed funeral
9 director, or licensed embalmer if to a substantial degree it evidences present or
10 potential unfitness of a licensed funeral establishment, licensed funeral direct, or
11 licensed embalmer to perform the functions authorized by his license in a matter
12 consistent with the public health, safety, or welfare. Such crimes or acts shall include
13 but not be limited to those involving the following:

14 (a) Conviction of a crime involving fiscal dishonesty.

15 (b) Any violation of the provisions of Chapter 12, Division 3 of the
16 Business and Professions Code [Funeral Directors and Embalmers Law].

17 **COST RECOVERY**

18 13. Section 125.3 provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 **DRUG DEFINITION**

23 14. Methamphetamine is a Schedule II controlled substance as designated by Health and
24 Safety Code section 11055, subdivision (d)(2), and Business and Professions Code section 4021.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Conviction of Substantially Related Crimes)**

27 15. Respondent is subject to disciplinary action under Sections 490 and 7668,
28 subdivisions (i), and 7691, in conjunction with California Code of Regulations, title 16, section
1252, in that Respondent was convicted of crimes substantially related to the qualifications,
functions, and duties of an apprentice embalmer and that Respondent violated a state law
affecting the handling, custody, care or transportation of human remains. Specifically, on
November 19, 2013, in *People v. Pete Jacob Lara* (Super. Ct. L.A. County, 2013, No.
MA061206), Respondent was convicted of one felony count of possession of a controlled

1 substance (Health & Saf. Code, § 11370, subd. (a)), one felony count of unlawful removal or
2 possession of dental gold (Health & Saf. Code, § 7051.5), and five felony counts of burglary in
3 the second degree (Pen. Code, § 459). The court sentenced Respondent to seven years prison to
4 be served in county jail, and ordered Respondent to pay \$3,000 in restitution to the Wounded
5 Warrior Project. The circumstances underlying the conviction are as follows:

6 16. On or about and between June 25, 2012 and October 28, 2013, while employed as an
7 apprentice embalmer, Respondent took gold crowns from bodies and also took other items such as
8 a cremation urn box and medallions used to decorate urn boxes. Respondent pawned the stolen
9 goods at pawn shops and jewelry exchanges. Respondent was a former employee of a funeral
10 home in Lancaster, California. Lancaster Sheriff's Deputies executed a warrant for Respondent's
11 arrest on October 18, 2013. During a search incident to arrest, the Deputies found several gold
12 fillings in Respondent's pocket along with methamphetamine. The Deputies immediately
13 thereafter obtained and executed a search warrant for Respondent's residence, which resulted in
14 the discovery of more fillings. Respondent told Lancaster Sheriff's Deputies that he stole the
15 teeth from his prior employment at a funeral home in Mesa, Arizona.

16 SECOND CAUSE FOR DISCIPLINE

17 (Violation of Funeral Directors and Embalmers Law)

18 17. Respondent is subject to disciplinary action under Sections 7668, subdivision (f), and
19 7704, in conjunction with California Code of Regulations, title 16, section 1252, in that
20 Respondent violated provisions of the Funeral Directors and Embalmers Law. Complainant
21 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 15 and
22 16, as though set forth fully herein.

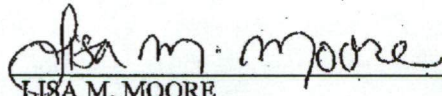
23 PRAYER

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Bureau issue a decision:

26 1. Revoking or suspending Certificate of Registration as an Apprentice Embalmer No.
27 AE 13316, issued to Respondent;

- 1 2. Ordering Pete Jacob Lara to pay the Bureau the reasonable costs of the investigation
2 and enforcement of this case, pursuant to Section 125.3; and
3 3. Taking such other and further action as deemed necessary and proper.
4

5 DATED: May 23, 2014



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

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