

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

In the Matter of the Accusations Against:

CHAPEL OF THE LIGHT, BUCK KAMPHAUSEN, PRESIDENT

1620 West Belmont

Fresno, CA 93728

Funeral Establishment License No. FD 1423,

and

MICHAEL J. RABARA

2005 S. Waverly Lane

Fresno, CA 93727

Funeral Director License No. FDR 2073

Case No.: A1 2020 323

OAH No.: 2020110488

Respondents.

DECISION AND ORDER

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

This Decision shall become effective on June 8, 2021.

It is so ORDERED April 25, 2021.

SIGNATURE ON FILE

RYAN MARCROFT
DEPUTY DIRECTOR, LEGAL AFFAIRS DIVISION
DEPARTMENT OF CONSUMER AFFAIRS

1 XAVIER BECERRA
Attorney General of California
2 DAVID E. BRICE
Supervising Deputy Attorney General
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8

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

13
14 In the Matter of the Accusation Against:

Case No. A1 2020 323

15 **CHAPEL OF THE LIGHT**
16 **BUCK KAMPHAUSEN, PRESIDENT**
17 **1620 West Belmont**
18 **Fresno, CA 93728**

OAH No. 2020110488

19 **Funeral Establishment License No. FD 1423,**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER (CHAPEL OF
THE LIGHT ONLY)**

20 **and**

21 **MICHAEL J. RABARA**
22 **2005 S. Waverly Lane**
23 **Fresno, CA 93727**

24 **Funeral Director License No. FDR 2073**

25 Respondents.
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29 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
30 entitled proceedings that the following matters are true:

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1 **PARTIES**

2 1. Gina Sanchez (Complainant) is the Bureau Chief of the Cemetery and Funeral Bureau
3 (Bureau). She brought this action solely in her official capacity and is represented in this matter
4 by Xavier Becerra, Attorney General of the State of California, by Phillip L. Arthur, Deputy
5 Attorney General.

6 2. Chapel of the Light (Respondent) is represented in this proceeding by attorney Steven
7 H. Gurnee.

8 3. On or about November 30, 1984, the Bureau issued Funeral Establishment License
9 No. FD 1423 to Respondent. The Funeral Establishment License was in full force and effect at
10 all times relevant to the charges brought herein and will expire on November 30, 2021, unless
11 renewed. On or about August 1, 2012, Michael J. Rabara was associated as the Responsible
12 Managing Funeral Director of Respondent.

13 **JURISDICTION**

14 4. Accusation No. A1 2020 323 was filed before the Director of the Department of
15 Consumer Affairs (Director), for the Bureau, and is currently pending against Respondent. The
16 Accusation and all other statutorily required documents were properly served on Respondent on
17 October 26, 2020. Respondent timely filed its Notice of Defense contesting the Accusation.

18 5. A copy of Accusation No. A1 2020 323 is attached as Exhibit A and incorporated
19 herein by reference.

20 **ADVISEMENT AND WAIVERS**

21 6. Respondent has carefully read, fully discussed with counsel, and understands the
22 charges and allegations in Accusation No. A1 2020 323. Respondent has also carefully read,
23 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
24 Disciplinary Order.

25 7. Respondent is fully aware of its legal rights in this matter, including the right to a
26 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
27 the witnesses against them; the right to present evidence and testify on its own behalf; the right to
28 the issuance of subpoenas to compel the attendance of witnesses and the production of

1 documents; the right to reconsideration and court review of an adverse decision; and all other
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

5 **CULPABILITY**

6 9. Respondent admits the truth of each and every charge and allegation in Accusation
7 No. A1 2020 323.

8 10. Respondent agrees that its Funeral Establishment License is subject to discipline and
9 they agree to be bound by the Director's probationary terms as set forth in the Disciplinary Order
10 below.

11 **CONTINGENCY**

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

22 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
24 signatures thereto, shall have the same force and effect as the originals.

25 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

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

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Funeral Establishment License No. FD 1423 issued to
8 Respondent, is revoked. However, the revocation is stayed and Respondent is placed on
9 probation for three (3) years on the following terms and conditions.

10 1. **Preneed Trust Reporting Requirements.** Beginning 90 days from the effective date of
11 this Decision and quarterly thereafter, Respondent shall provide a list to the Bureau, pursuant to
12 title 16 of the California Code of Regulations, section 1267, that includes name, contract number,
13 contract date, contract amount, corpus received to date, accumulated income to date, and
14 serviced/canceled corpus and serviced/canceled accumulated income for the following: new
15 preneed contracts, serviced preneed contracts, and cancelled preneed contracts.

16 2. **Preneed Trust Account Statements.** Beginning 90 days from the effective date of this
17 Decision and quarterly thereafter, Respondent shall provide to the Bureau copies of bank
18 statements and/or account statements for the trust accounts held in its Umpqua Bank checking
19 account titled "Fresno Cremation Company Chapel of the Light Funeral Trust Fund," its Merrill
20 Lynch brokerage account titled "Fresno Crematory Funeral Trust," and its Regions Bank account.

21 3. **Preneed Funeral Trust Fund Report.** Respondent shall timely submit its annual
22 Preneed Trust Fund Report and audited financial statements to the Bureau in accordance with
23 Business and Professions Code section 7737.3 and title 16 of the California Code of Regulations,
24 section 1269.

25 4. **Provision of Records.** Respondent shall provide specific records, including records
26 pertaining to its preneed arrangements, to the Bureau Chief or their designee upon demand during
27 the period of probation for inspection. Respondent shall respond to any Bureau inquiry within 30
28 days.

1 5. **Obey All Laws.** Respondent shall comply with all conditions of probation and obey all
2 federal, state, and local laws, and all rules and regulations governing the programs regulated by
3 the Bureau.

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

10 7. **Interview with Bureau Representative.** As necessary, Respondent shall appear in
11 person for scheduled interviews with the Bureau Chief or other designated representative for the
12 purpose of monitoring compliance with the terms of this Decision.

13 8. **Out of State Residence or Operation.** Should Respondent leave California to reside or
14 operate outside this state, Respondent must notify the Bureau in writing of the dates of departure
15 and return. Reporting in person may be waived if Respondent moves out of the state. However,
16 Respondent shall continue compliance with other terms of probation to retain California
17 licensure. Periods of residency, business operation, or employment outside California shall not
18 reduce the probationary period.

19 9. **Completion of Probation.** Upon successful completion of probation, Respondent's
20 license will be fully restored.

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

26 11. **License Issued During Probation.** Any license or registration issued to Respondent by
27 the Bureau during the period of probation shall be issued as a probationary license or registration
28 and is subject to all the terms and conditions set forth herein. Respondent must comply with

1 terms and conditions herein and demonstrate no cause for disciplinary action or denial of an
2 application.

3 **12. Cost Recovery.** Respondent shall pay the Bureau's actual and reasonable costs of
4 investigation and enforcement of this matter in the amount of \$10,031.25. Said amount shall be
5 paid within the first two (2) years of probation. Probation shall not terminate until full payment
6 has been made. Respondent's license shall not be renewed until the cost recovery has been paid
7 in full or Respondent is otherwise in compliance with a payment plan approved by the Bureau.

8 **ACCEPTANCE**

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
10 discussed it with my attorney, Steven H. Gurnee. I understand the stipulation and the effect it
11 will have on my Funeral Establishment License. I enter into this Stipulated Settlement and
12 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
13 Decision and Order of the Director of the Department of Consumer Affairs.

14
15 DATED: March 19, 2021 SIGNATURE ON FILE
16 CHAPEL OF THE LIGHT
Respondent

17 I have read and fully discussed with Respondent Chapel of the Light the terms and
18 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
19 I approve its form and content.

20 DATED: March 22, 2021 SIGNATURE ON FILE
21 STEVEN H. GURNEE
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of the Department of Consumer Affairs.

DATED: March 22, 2021

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
DAVID E. BRICE
Supervising Deputy Attorney General

SIGNATURE ON FILE

PHILLIP L. ARTHUR
Deputy Attorney General
Attorneys for Complainant

SA2020303263

Exhibit A

Accusation No. A1 2020 323

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Supervising Deputy Attorney General
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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 2020 323

14 **CHAPEL OF THE LIGHT**
15 **BUCK KAMPHAUSEN, PRESIDENT**
16 **1620 West Belmont**
17 **Fresno, CA 93728**

ACCUSATION

18 **Funeral Establishment License No. FD 1423,**

19 **and**

20 **MICHAEL J. RABARA**
21 **2005 S. Waverly Lane**
22 **Fresno, CA 93727**

23 **Funeral Director License No. FDR 2073**

24 Respondents.

25 **PARTIES**

26 1. Gina Sanchez (Complainant) brings this Accusation solely in her official capacity as
27 the Bureau Chief of the Cemetery and Funeral Bureau (Bureau), Department of Consumer
28 Affairs.

29 2. On or about November 30, 1984, the Bureau issued Funeral Establishment License
30 No. FD 1423 to Chapel of the Light (Respondent Chapel of the Light). The Funeral

1 Establishment License was in full force and effect at all times relevant to the charges brought
2 herein and will expire on November 30, 2020, unless renewed. On or about August 1, 2012,
3 Michael J. Rabara (Respondent Rabara) was associated as the Responsible Managing Funeral
4 Director of Respondent Chapel of the Light.

5 3. On or about January 5, 2000, the Bureau issued Funeral Director License No. FDR
6 2073 to Respondent Rabara. The Funeral Director License was in full force and effect at all times
7 relevant to the charges brought herein and will expire on January 31, 2021, unless renewed.

8 **JURISDICTION**

9 4. This Accusation is brought before the Director of the Department of Consumer
10 Affairs (Director) for the Bureau, under the authority of the following laws. All section
11 references are to the Business and Professions Code (Code) unless otherwise indicated.

12 5. Section 118, subdivision (b) of the Code states:

13 The suspension, expiration, or forfeiture by operation of law of a license issued
14 by a board in the department, or its suspension, forfeiture, or cancellation by order of
15 the board or by order of a court of law, or its surrender without the written consent of
16 the board, shall not, during any period in which it may be renewed, restored, reissued,
17 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.

18 6. Section 7614.5 of the Code states, “The bureau is authorized to bring action to
19 enforce the provisions of the law subject to its jurisdiction, in which actions it shall be represented
20 by the Attorney General.”

21 7. Section 7686 of the Code states, “The bureau may suspend or revoke licenses, after
22 proper notice and hearing to the licensee, if the licensee has been found guilty by the bureau of
23 any of the acts or omissions constituting grounds for disciplinary action. The proceedings under
24 this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of
25 the Government Code, and the bureau shall have all the powers granted therein.”

26 8. Section 7690 of the Code states:

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

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

- (a) Suspension of the disciplinary order.
- (b) Reprimand, public or private.
- (c) Probation.
- (d) Suspension of the right to practice.
- (e) Revocation of the right to practice.
- (f) Such other penalties as the bureau deems fit.

STATUTORY PROVISIONS

9. Section 7616.2 of the Code states, "A licensed funeral establishment shall at all times employ a licensed funeral director to manage, direct, or control its business or profession. Notwithstanding any other provisions of this chapter, licensed funeral establishments within close geographical proximity of each other, may request the bureau to allow a licensed funeral director to manage, direct, or control the business or profession of more than one facility."

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."

11. Section 7707 of the Code states, "Gross negligence, gross incompetence or unprofessional conduct in the practice of funeral directing or embalming constitutes a ground for disciplinary action."

12. Section 7735 of the Code states:

No funeral establishment licensed under the laws of the State of California, or the agents or employees of a funeral establishment, shall enter into or solicit any preneed arrangement, contract, or plan, hereinafter referred to as "contract," requiring the payment to the licensee of money or the delivery to the licensee of securities to pay for the final disposition of human remains or for funeral services or for the furnishing of personal property or funeral merchandise, wherein the use or delivery of those services, property or merchandise is not immediately required, unless the contract requires that all money paid directly or indirectly and all securities delivered under that agreement or under any agreement collateral thereto, shall be held in trust for the purpose for which it was paid or delivered until the contract is fulfilled according to its terms; provided, however, that any payment made or securities deposited pursuant to this article shall be released upon the death of the person for whose benefit the trust was established as provided in Section 7737. The income from the trust may be used to pay for a reasonable annual fee for administering the trust, including a trustee fee to be determined by the bureau, and to establish a reserve of

1 not to exceed 10 percent of the corpus of the trust as a revocation fee in the event of
2 cancellation on the part of the beneficiary. The annual fee for trust administration
3 may be recovered by withdrawals from accumulated trust income, provided that total
4 withdrawals for this purpose shall not exceed the amount determined by the bureau.
5 In no case shall the total amount withdrawn in a year for trust administration exceed
6 the total amount of posted trust income for the immediate 12 preceding months. In
7 addition to annual fees and reserves authorized by this section, a trustee may, at its
8 election, pay taxes on the earnings on any trust pursuant to Section 17760.5 of the
9 Revenue and Taxation Code. In no event, however, shall taxes paid on the earnings of
10 any trust be considered part of the fees or reserves authorized by this section. All
11 remaining income shall be accumulated in trust.

12 None of the corpus of the trust shall be used for payment of any commission
13 nor shall any of the corpus of the trust be used for other expenses of trust
14 administration, or for the payment of taxes on the earnings of the trust.

15 13. Section 7737 of the Code states:

16 All securities purchased by the trustor for deposit in trust and all money
17 received from the trustor for deposit in trust shall be placed in trust with a trustee
18 within 30 days of their receipt by the funeral establishment pursuant to a trust
19 agreement executed by the funeral establishment, the trustor and trustee which shall
20 provide that the trustee shall hold the money or securities in trust for the purposes for
21 which deposited and that the trustee, upon the signature of a majority of such trustees,
22 shall deliver the corpus of the trust to the funeral establishment upon the filing of a
23 certified copy of the death certificate or other satisfactory evidence of the death of the
24 beneficiary, together with satisfactory evidence that the funeral establishment has
25 furnished the merchandise and services, provided, however, that (1) in the case of a
26 trust agreement between any of the trustees set forth in Section 7736 and a recipient
27 of public assistance, under the provisions of subdivision (a) of Section 11158 or
28 paragraph (1) of subdivision (e) of Section 12152 of the Welfare and Institutions
Code, and provided the value limitations of those sections are not exceeded, such
trust agreement may further provide that it is irrevocable, and (2) in all other cases
such trust agreement shall further provide that at any time before the funeral
establishment has furnished the merchandise and services provided for in the contract
the trustor or the legally appointed representative may in writing demand and receive
the return of the corpus of the trust, together with any income accrued in the trust, less
the revocation fee provided for in Section 7735; provided, however, that if and when
the trustor becomes otherwise eligible, or in order to become eligible, for public
social services, as provided in Division 9 (commencing with Section 10000) of the
Welfare and Institutions Code, he or she may agree, at his or her option, that the trust
shall be irrevocable in order to avail himself or herself of the provisions of Section
11158 or Section 12152 of the Welfare and Institutions Code. The delivery of the
corpus of the trust and the accumulated income to the funeral establishment
performing the services, trustor or beneficiary pursuant to the terms of this article and
the trust agreement herein referred to, shall relieve the trustee of any further liabilities
with regard to those funds or income therefrom.

13 14. Section 7737.3 of the Code states, "All commingled preneed trust funds held by a
14 funeral establishment shall be subject to an annual, independent certified financial audit with a
15 copy of the audit to be submitted to the bureau for review within 120 days of the close of the
16 fund's fiscal year. Any findings of noncompliance with existing law regarding preneed trust funds

1 shall be identified by the auditor in a separate report for review and action by the bureau. Audits
2 and reports of noncompliance shall be filed simultaneously.”

3 **REGULATORY PROVISIONS**

4 15. California Code of Regulations, title 16, section 1204, subdivision (b), states:

5 (b) The designated managing licensed funeral director of a licensed funeral
6 establishment shall be responsible for exercising such direct supervision and control
7 over the conduct of said funeral establishment as is necessary to ensure full
8 compliance with the Funeral Directors and Embalmers Law, the provisions of this
9 chapter and the applicable provisions of the Health and Safety Code. Failure of the
10 designated managing licensed funeral director and/or the licensed funeral
11 establishment to exercise such supervision or control, or failure of the holder of the
12 funeral establishment license to make such designation shall constitute a ground for
13 disciplinary action.

14 16. California Code of Regulations, title 16, section 1267 states:

15 Each funeral establishment charged with the reporting of pre-need funds
16 hereunder shall at all times maintain or cause the trustee of the pre-need trust to
17 maintain in California and available for inspection by the bureau during reasonable
18 working hours, complete financial records of all pre-need contracts and arrangements,
19 which records shall be established and maintained in accordance with generally
20 accepted accounting principles. Such records shall include the following, provided,
21 however, that records may otherwise be established and maintained in accordance
22 with generally accepted accounting principles:

23 (a) An individual trustor contract, plan or agreement.

24 (b) An individual trustor or beneficiary ledger account which shall set forth the
25 amount of the contract, all payments received, all income prorated in accordance with
26 the ratio which the trust corpus of the account bears to the entire corpus invested as
27 set forth in Section 1265.

28 (c) A cash receipts journal which shall show each payment received and shall
be totalled monthly.

(d) A cash disbursement journal which will show each withdrawal for an
investment in compliance with 1263 and each disbursement to the funeral
establishment for a serviced account or to the individual trustor on a cancelled
account, and all withdrawals for documented expenses.

(e) In the case where a checking account is used to deposit payments received
or disbursements to the funeral establishment and/or the funeral director, a trustor or
an investment, it shall be designated as a trust fund account, and be reported as such.
It shall be reconciled each month with the balance shown in the trust account by
accounting for checks not yet presented and outstanding, bank deposits not shown on
the bank statements, and other adjustments required.

(f) A general ledger which shall be posted monthly with respect to all accounts
controlling the fiduciary relationship with the individual trustors. Such postings shall
occur within ninety (90) days after the close of each business month.

1 (g) A portfolio of all investments related to the trust funds.

2 (h) Records for serviced accounts shall include but not be limited to:

3 (1) A copy of the death certificate or other satisfactory evidence of the death;
4 copies of all documents required as specified under Sections 7685 and 7685.2,
5 Division 3, Chapter 12, Article 5.5 of the Business and Professions Code; a copy of
6 the final arrangements (itemized); and a copy of the final statement to the family.

7 (2) All monies received from the trust; all monies received from the family; and
8 all monies received from the Veterans Administration or Social Security or any other
9 source to be applied to the final bill.

10 (3) A record showing credit for each of the above.

11 (i) Records for cancelled accounts shall include but not be limited to:

12 (1) A record of all income earned and documented expenses taken including a
13 revocation fee as stated in Section 7735, Division 3, Chapter 12, Article 9, of the
14 Business and Professions Code.

15 (2) A copy of the final accounting to the family with the cancelled check or
16 withdrawal slip showing the amount refunded to the trustor.

17 (j) All of the foregoing records shall be retained for a period of one (1) year
18 after the account has been cancelled or serviced and audited by the bureau and
19 compliance with all recommendations made and audit exceptions resolved or seven
20 (7) years from the date of service or cancellation, whichever comes first.

21 The required books and records for more than one (1) licensed funeral
22 establishment may be centrally maintained at a single location in California with
23 notification to the bureau or the main office as defined in Section 1204(c)(2),
24 provided that a monthly summary of all financial transactions pertaining to each
25 individual trust account for each licensed funeral establishment is available, at each
26 such establishment during reasonable working hours, to the bureau or its authorized
27 representatives; and provides further that the monthly summary contains sufficient
28 information from which the current balance of each individual trustor's account or
each individual trustor's share of any commingled trust account may be identified.

17. California Code of Regulations, title 16, section 1269 states:

21 (a) Each licensed funeral establishment and licensed funeral director who enters
22 into any pre-need arrangements, contracts or plans described in and subject to the
23 provisions of Article 9, Chapter 12, Division 3 of the Business and Professions Code
24 shall file with the bureau annually on or before May 1 of each year and upon transfer
25 of license or cessation of business, a written, verified or audited report, on form 21 P-
26 4A (1/94) prescribed and furnished by the bureau, pertaining to funds received and
held under such arrangements, contracts or plans. Firms utilizing a fiscal year
accounting system may request permission, in writing to the bureau chief to file said
report on a fiscal year basis and, if permission is granted, said report shall then be
filed with the bureau no later than one hundred twenty (120) days from the; date of
the close of said fiscal year.

27 (b) The report required under this Article shall accompany the forms of
28 assignment or transfer of a funeral establishment license. The report required
hereunder upon cessation of business as a licensed funeral establishment shall be

submitted thirty (30) days prior to such cessation of business.

(c) In cases where trust corpus is deposited in individual savings accounts, and not commingled for investment purposes, the bureau may require a verified report. Said requirement of verification shall be deemed complied with by a verification under penalty of perjury by the owner, partners, or, in the case of a corporation, by the president or vice-president and one (1) other officer thereof and, in addition thereto, all reports must contain a verification under penalty of perjury executed by at least two (2) trustees not employed by the funeral establishment and, in the case of a banking institution or trust company legally authorized to act as a trustee within the meaning of Section 7736 of Article 9, Chapter 12, Division 3, of the Business and Professions Code, a verification under penalty of perjury on behalf of such trustee by an authorized representative of said trustee.

(d) In cases where trust funds have been commingled for purposes of investment, the bureau may require, in addition to the written report required by subsection (a) of this section, an independent audit report prepared and signed by a Certified Public Accountant or Public Accountant, currently licensed in the State of California, which certifies compliance with the provisions of Article 9, Chapter 12, Division 3 of the Business and Professions Code and the provisions of this Article.

(e) All written reports required under this section shall include, but are not limited to, a statement setting forth:

(1) Amounts collected pursuant to pre-need arrangements, contracts or plans, or any agreements collateral thereto;

(2) Amounts deposited with the trustee and held in trust;

(3) Amounts of authorized expenditures of income allocable to individual accounts, itemized as to the nature of expenditures;

(4) Amount of authorized expenditures of income paid, itemized as to the nature of expenditure; and

(5) Separately, the total amount of such trust funds invested in each of the investments authorized by law and the amount of cash on hand not invested which statement actually show the financial condition of the trust funds.

(f) Two (2) or more funeral establishments who utilize a common trust fund to hold and administer payments received under pre-need contracts may cause the trustee of that common trust fund to file one (1) combined annual report regarding all such pre-need contracts, provided each funeral establishment's information is disclosed separately.

COST RECOVERY

18. Section 125.3 of the Code states, in pertinent part:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee 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.

1 (b) In the case of a disciplined licensee that is a corporation or a partnership,
the order may be made against the licensed corporate entity or licensed partnership.

2

3 **FACTUAL ALLEGATIONS**

4 19. In or about September 2018, a Bureau auditor conducted an on-site audit of
5 Respondent Chapel of the Light, located in Fresno, California.

6 20. The audit revealed that Respondent Chapel of the Light wrote at least \$583,241.00 in
7 preneed funeral contracts directly with consumers from 2006-2017, but failed to establish a
8 preneed funeral trust.

9 21. The audit also revealed that Respondent Chapel of the Light used a combined
10 contract for preneed funeral, cemetery, and crematory purchases. The combined contract did not
11 require all monies paid to be deposited in a funeral trust.

12 22. The audit also revealed that as of December 31, 2018, Respondent Chapel of the
13 Light was the registered owner of \$547,534.00 of preneed funds held with Regions Bank. These
14 funds are held in the form of trusted insurance options. Respondent Chapel of the Light has also
15 failed to report these preneed funds to the Bureau.

16 23. Before the audit, in or about March 2018, Respondent Rabara, Respondent Chapel of
17 the Light's Responsible Managing Funeral Director, falsely stated in writing to the Bureau's
18 supervising auditor that Chapel of the Light does not accept any preneed monies directly from
19 consumers. Once preneed funds were found by the Bureau auditor, Rabara failed to produce the
20 required documentation for them. The Bureau was therefore unable to determine the exact
21 amount and location of preneed funds that Respondent Chapel of the Light is holding for
22 consumers.

23 24. During the audit, the Bureau auditor requested from Respondent Rabara a complete
24 list of all outstanding funeral preneed funds, which consist of payments made, by contract, to
25 Respondent Chapel of the Light on preneed contracts for which service has yet to be provided.
26 These documents were not readily available during the audit.

27 25. Multiple requests for these documents were made by the Bureau auditor to
28 Respondent Rabara which were either ignored or fulfilled by providing incomplete, incorrect, or

1 irrelevant information. Ultimately, Rabara emailed the Bureau auditor 147 computer
2 spreadsheets with listings by month of all preneed contracts written for all Chapel of the Light's
3 entities since 2006. The Bureau auditor's consolidation and evaluation of these contract listings
4 from 2006 through 2017 revealed that Chapel of the Light wrote \$583,241.00 in preneed
5 contracts during the period. Additionally, Rabara was aware that Chapel of the Light held
6 preneed funds because he is listed as the salesperson for contracts written as far back as
7 November 2008. Rabara did not attest to the accuracy or completeness of the lists he submitted
8 or provide information about the dollar value of the preneed funds on it, which are outstanding.

9 **RESPONDENT CHAPEL OF THE LIGHT**

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Failure to Establish a Preneed Funeral Trust)**

12 26. Respondent Chapel of the Light has subjected its license to disciplinary action under
13 Code sections 7703, 7707, and 7735, in that Chapel of the Light wrote at least \$583,241.00 in
14 preneed funeral contracts from 2006 through 2017 but did not establish a preneed funeral trust to
15 hold the monies received on those contracts, as set forth in paragraphs 19-20, above.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Failure to Maintain Complete Financial Records of All Preneed Contracts and**
18 **Arrangements)**

19 27. Respondent Chapel of the Light has subjected its license to disciplinary action under
20 Code sections 7703 and 7707, by and through California Code of Regulations, title 16, section
21 1267, in that during the September 2018 audit, Chapel of the Light did not have readily available
22 a complete list of all outstanding funeral preneed funds, which consist of payments made, by
23 contract, to Chapel of the Light on preneed contracts for which service has yet to be provided.
24 The facts and circumstances are described with more particularity in paragraphs 19 and 24,
25 above.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Deposit in Trust All Securities Received Pursuant to a Trust Agreement)**

3 28. Respondent Chapel of the Light has subjected its license to disciplinary action under
4 Code sections 7703, 7707, and 7737 in that Respondent Chapel of the Light collected \$36,144.00
5 in payments on preneed contracts in 2017 alone and did not place the funds into a preneed trust.
6 The facts and circumstances are as follows.

7 a. During the September 2018 audit, the Bureau auditor reviewed the 2017 listing of
8 cash receipts which Respondent Rabara and J.S., Respondent Chapel of the Light's Controller,
9 provided, as well as Chapel of the Light's banking activity, and found that:

10 i. During 2017, Respondent Chapel of the Light collected \$36,144.00 in payments
11 for funeral preneed contracts. Of that, 22 payments, totaling \$23,629.00, were made specifically
12 for contracts written in 2017. The remaining \$12,515.00 in payments were for years prior to
13 2017, indicating that Chapel of the Light had outstanding preneed contracts for several years on
14 which it was routinely collecting payments.

15 ii. All 22 payments were deposited to Respondent Chapel of the Light's general
16 operating account.

17 iii. Eight of the 22 payments, totaling \$8,475.00, stayed in Respondent Chapel of
18 the Light's general operating account as property of the funeral establishment and were not
19 transferred to another account.

20 iv. The other 14 payments, totaling \$15,154.00, were transferred to a Chapel of the
21 Light checking account at Umpqua Bank titled "Fresno Cremation Company Chapel of the Light
22 Funeral Trust Fund." This account had a balance of \$24,523.00 on December 31, 2017.

23 v. Respondent Chapel of the Light also has a Merrill Lynch brokerage account
24 titled "Fresno Crematory Funeral Trust." No preneed deposits were made to this account. This
25 account had a balance of \$514,721.00 on December 31, 2017.

26 vi. The combined value of the Umpqua and Merrill Lynch accounts was
27 \$539,244.00 on December 31, 2017.

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1 amounts of outstanding preneed funds, as no other information was provided, combined with the
2 value of the insurance preneeds, the amount of preneeds Chapel of the Light appears to be
3 holding is estimated to be \$1,130,775.00 (\$583,241.00 + \$547,534.00).

4 b. The Bureau auditor searched the Bureau's records and found no evidence of receipt of
5 any preneed funeral trust fund reports or financial or compliance audits. J.S. acknowledged that
6 Respondent Chapel of the Light's preneed funeral trust monies have not been included on any
7 reports filed with the Bureau since Chapel of the Light was purchased by the current owner in
8 2007.

9 c. The Bureau has taken various enforcement actions in an attempt to obtain required
10 annual reports, including sending Late Letters and Notices of Citation and Assessment of Fine
11 with Order of Abatement, including payment information, for years 2015, 2016, and 2017; Late
12 Letters for 2018's report; and a final notice, dated August 7, 2019.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Failure to File Annual Report)**

15 30. Respondent Chapel of the Light has subjected its license to disciplinary action under
16 Code sections 7703 and 7707, by and through California Code of Regulations, title 16, section
17 1269, subdivision (a), in that Chapel of the Light failed to file an annual report, prescribed and
18 furnished by the Bureau, each year. The facts and circumstances are described with more
19 particularity in paragraphs 19-25 and 29, above.

20 **RESPONDENT RABARA**

21 **SIXTH CAUSE FOR DISCIPLINE**

22 **(Failure to Establish a Preneed Funeral Trust)**

23 31. Respondent Rabara has subjected his license to disciplinary action under Code
24 sections 7703, 7707, and 7735, as Respondent Chapel of the Light's Responsible Managing
25 Funeral Director, in that Chapel of the Light wrote at least \$583,241.00 in preneed funeral
26 contracts from 2006 through 2017 but did not establish a preneed funeral trust to hold the monies
27 received on those contracts, as set forth in paragraphs 19-20, above.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Complete Financial Records of All Preneed Contracts and**
3 **Arrangements)**

4 32. Respondent Rabara has subjected his license to disciplinary action under Code
5 sections 7703 and 7707, by and through California Code of Regulations, title 16, section 1267, as
6 Respondent Chapel of the Light’s Responsible Managing Funeral Director, in that during the
7 September 2018 audit, Chapel of the Light did not have readily available a complete list of all
8 outstanding funeral preneed funds, which consist of payments made, by contract, to Chapel of the
9 Light on preneed contracts for which service has yet to be provided. The facts and circumstances
10 are described with more particularity in paragraphs 19 and 24, above.

11 **EIGHTH CAUSE FOR DISCIPLINE**

12 **(Failure to Deposit in Trust All Securities Received Pursuant to a Trust Agreement)**

13 33. Respondent Rabara has subjected his license to disciplinary action under Code
14 sections 7703, 7707, and 7737, as Respondent Chapel of the Light’s Responsible Managing
15 Funeral Director, in that Chapel of the Light collected \$36,144.00 in payments on preneed
16 contracts in 2017 alone and did not place the funds into a preneed trust. The facts and
17 circumstances are described with more particularity in paragraph 28, above.

18 **NINTH CAUSE FOR DISCIPLINE**

19 **(Failure to File Independent Certified Financial Audit of Preneed Trust Funds)**

20 34. Respondent Rabara has subjected his license to disciplinary action under Code
21 sections 7703, 7707, and 7737.3, as Respondent Chapel of the Light’s Responsible Managing
22 Funeral Director, in that Chapel of the Light failed to file an independent certified financial audit
23 of preneed trust funds collected from customers and annually provide an independent audit report
24 prepared and signed by a Certified Public Accountant or Public Accountant, currently licensed in
25 the State of California, which certifies compliance with existing law regarding preneed trust
26 funds. The facts and circumstances are described with more particularity in paragraph 29, above.

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TENTH CAUSE FOR DISCIPLINE

(Failure to File Annual Report)

35. Respondent Rabara has subjected his license to disciplinary action under Code sections 7703 and 7707, by and through California Code of Regulations, title 16, section 1269, subdivision (a), as Respondent Chapel of the Light’s Responsible Managing Funeral Director, in that Chapel of the Light failed to file an annual report, prescribed and furnished by the Bureau, each year. The facts and circumstances are described with more particularity in paragraphs 19-25 and 29, above.

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Provide Comprehensive List of Outstanding Preeed Funeral Obligations and Respond to Bureau Requests)

36. Respondent Rabara has subjected his license to disciplinary action under Code sections 7703 and 7707, by and through California Code of Regulations, title 16, section 1204, subdivision (b), in that he failed to provide a comprehensive list of Respondent Chapel of the Light’s outstanding preneed funeral obligations and did not provide any further responses to the Bureau’s requests. The facts and circumstances are described with more particularity in paragraphs 19 and 25, above.

TWELFTH CAUSE FOR DISCIPLINE

(Failure to Exercise Direct Supervision and Control)

37. Respondent Rabara has subjected his license to disciplinary action under Code section 7686, in conjunction with California Code of Regulations, title 16, section 1204, subdivision (b), in that he failed to exercise direct supervision and control over the conduct of Respondent Chapel of the Light, of which he is the Responsible Managing Funeral Director, as is necessary to ensure full compliance with the Cemetery and Funeral Act and Division 12 of Title 16 of the California Code of Regulations (S 1200 et seq.). The facts and circumstances are described with more particularity in paragraphs 19, 23, and 25, above.

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PRAYER

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

- 1. Revoking or suspending Funeral Establishment License No. FD 1423, issued to Chapel of the Light;
- 2. Revoking or suspending Funeral Director License No. FDR 2073, issued to Michael J. Rabara;
- 3. Ordering Chapel of the Light and Michael J. Rabara 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; and,
- 4. Taking such other and further action as deemed necessary and proper.

DATED: 10/21/2020

SIGNATURE ON FILE

 GINA SANCHEZ
 Bureau Chief
 Cemetery and Funeral Bureau
 Department of Consumer Affairs
 State of California
Complainant

SA2020303263