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8
9 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
10 **FOR THE CEMETERY AND FUNERAL BUREAU**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Petition for Interim
Suspension Order Against:

14 **OCEANVIEW CREMATIONS**
15 **25180 Mission Blvd.**
Hayward, CA 94542

16 **Funeral Establishment License No. FD 2082**

17 **ROBERT C. SMITH, SR.**
18 **25176 Mission Blvd.**
Hayward, CA 94544

19 **Funeral Director License No. FDR 781**

20 Respondents.
21

Case No. A1 2021 372

**PETITION FOR INTERIM SUSPENSION
ORDER**

[Bus. and Prof. Code, § 494]

Date:

Time:

Place: Remote Hearing

22
23 Complainant Gina Sanchez, Bureau Chief of the Cemetery and Funeral Bureau (Bureau),
24 Department of Consumer Affairs, hereby petitions the Office of Administrative Hearings for an
25 Interim Suspension Order pursuant to Business and Professions Code section 494, subdivision
26 (a)(2). Complainant seeks suspension of Oceanview Cremations' (Respondent Oceanview's)
27 Funeral Establishment License and Robert C. Smith, Sr.'s (Respondent Smith's) Funeral Director
28 License pending the outcome of these proceedings, and alleges the following:

1 **PARTIES**

2 1. Complainant brings this Petition for Interim Suspension Order solely in her official
3 capacity as the Bureau Chief of the Bureau, Department of Consumer Affairs.

4 2. On or about February 7, 2011, the Bureau issued Funeral Establishment License No.
5 FD 2082 to Respondent Oceanview with Respondent Smith as the responsible managing funeral
6 director. The Funeral Establishment License was delinquent between February 28, 2022, when
7 the license expired, and April 4, 2022, when the license was renewed. The Funeral Establishment
8 License is currently valid and will expire on February 28, 2023, unless renewed.

9 3. On or about May 13, 1997, the Bureau issued Funeral Director License No. FDR 781
10 to Respondent Smith. The Funeral Director License will expire on May 31, 2023, unless
11 renewed.

12 **JURISDICTION**

13 4. The Bureau is the state agency charged with administering and enforcing cemetery
14 and funeral law in California, and Complainant is authorized to make and file this petition as
15 Bureau Chief on behalf of and for the Bureau in furtherance of its statutory duties. This Petition
16 is brought under the authority of the following laws. All section references are to the Business
17 and Professions Code (Code) unless otherwise indicated.

18 5. Code section 7686 provides, in pertinent part, that the Bureau “may suspend or
19 revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found
20 guilty by the bureau of any of the acts or omissions constituting grounds for disciplinary action.”

21 6. Code section 494, subdivision (a) provides, in pertinent part, that an Administrative
22 Law Judge of the Office of Administrative Hearings may, on behalf of the Board and upon proper
23 petition, issue an interim order suspending a licensee from practice or imposing license
24 restrictions if supporting affidavit(s) demonstrate: (1) the licensee has engaged in acts or
25 omissions constituting a violation of the Code and/or has been convicted of a crime substantially
26 related to the licensed activity; and (2) permitting the licensee to continue in the licensed activity,
27 or without restrictions, would endanger the public health, safety, or welfare.

1 within a reasonable period after the information becomes available. All prices
2 charged for items covered under Sections 7685 and 7685.1 shall be the same as those
3 given under such sections.

4 (b) A funeral establishment shall obtain from the person with the right to
5 control the disposition pursuant to Section 7100 of the Health and Safety Code, or the
6 person prearranging the cremation or hydrolysis and disposition of his or her own
7 remains, a signed declaration designating specific instructions with respect to the
8 disposition of cremated remains or hydrolyzed human remains. The bureau shall
9 make available a form upon which the declaration shall be made. The form shall
10 include, but not be limited to, the names of the persons with the right to control the
11 disposition of the cremated remains or hydrolyzed human remains and the person
12 who is contracting for the cremation or hydrolysis services; the name of the deceased;
13 the name of the funeral establishment in possession of the remains; the name of the
14 crematorium or hydrolysis facility; and specific instructions regarding the manner,
15 location, and other pertinent details regarding the disposition of cremated remains or
16 hydrolyzed human remains. The form shall be signed and dated by the person
17 arranging for the cremation or hydrolysis and the funeral director, employee, or agent
18 of the funeral establishment in charge of arranging or prearranging the cremation or
19 hydrolysis service.

20 ...

21 11. Code section 7692 states:

22 Misrepresentation or fraud in the conduct of the business or the profession of a
23 funeral director or embalmer constitutes a ground for disciplinary action.

24 12. Code section 7693 states:

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

27 13. Code section 7707 states:

28 Gross negligence, gross incompetence or unprofessional conduct in the practice of
funeral directing or embalming constitutes a ground for disciplinary action.

14. Health and Safety Code section 7110 states:

Any person signing any authorization for the interment or cremation of any remains
warrants the truthfulness of any fact set forth in the authorization, the identity of the
person whose remains are sought to be interred or cremated, and his or her authority
to order interment or cremation. He or she is personally liable for all damage
occasioned by or resulting from breach of such warranty.

15. Health and Safety Code section 102775 states:

Each death shall be registered with the local registrar of births and deaths in the

1 district in which the death was officially pronounced or the body was found, within
2 eight calendar days after death and prior to any disposition of the human remains.

3 16. Health and Safety Code section 103070 states:

4 The body of any person whose death occurs in this state, or whose body is found in
5 the state, or that is brought in from outside the state, shall not be temporarily held
6 pending disposition more than eight calendar days after death, unless a permit for
7 disposition is issued by the local registrar of the registration district in which the
8 death occurred or the body was found.

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

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

19 18. California Code of Regulations, title 16, section 1210 states:

20 The certificate of licensure shall remain the property of the State of California, in
21 possession of the licensee only so long as he/she or it exercises the license at the
22 location specified in the license, and said certificate shall be surrendered to the bureau
23 upon change of address, change of name, assignment or upon discontinuance of
24 business at the specified address. This rule shall not prevent a licensed funeral
25 director from conducting a funeral in another licensed establishment, nor shall it
26 prevent a licensed funeral director from conducting a funeral at a church, cemetery,
27 home, public hall, lodge room, or other suitable place.

28 19. California Code of Regulations, title 16, section 1214 states:

Except as otherwise provided in Health and Safety Code section 7304, human
remains shall not be embalmed without the express authorization of a person having
the legal right to control disposition of the remains. Such authorization, to either
accept or decline embalming, shall be secured by use of form 12-AUTH (rev. 11/14)
prescribed by the bureau and made a part of this regulation. The form shall be used in
the exact form set forth below, without additions, substitutions, or amendments, and
may be either a separate form or combined with another form.

...

20. California Code of Regulations, title 16, section 1277.5 states:

(a) The statement disclosing whether or not the funeral establishment has any

1 preneed agreement made by or on behalf of the deceased shall be made on the
2 “Disclosure of Preneed Funeral Agreement” form provided by the Bureau (Form
3 21F1 (10/03)), which is hereby incorporated by reference. The disclosure statement
4 shall be signed and dated by the representative of the funeral establishment and by the
5 survivor or responsible party. A copy of the completed disclosure statement shall be
6 given to the survivor or responsible party, and the original completed disclosure
7 statement, or copy thereof, shall be retained by the funeral establishment for not less
8 than one (1) year after the serviced preneed account has been audited by the Bureau
9 or seven (7) years from the date the disclosure statement was made, whichever comes
10 first.

11 (b) The “survivor” is the person with the right to control disposition of the
12 remains under Health and Safety Code Section 7100, or their designee.

13 (c) The “responsible party” is the person contracting for funeral goods or
14 services or both funeral goods and services for the decedent from the funeral
15 establishment.

16 (d) Pursuant to Business and Professions Code Sections 7685.6 and 7745, a
17 copy of any signed preneed agreement made by, or on behalf of the decedent that is
18 paid for in full or in part and is in the possession of the funeral establishment must
19 be given to the responsible party or the decedent's survivor who is handling the funeral
20 arrangements prior to drafting any contract for goods or services.

21 **EVIDENCE IN SUPPORT**

22 21. Attached as Exhibit 1 is the Declaration of Bureau Field Representative James
23 Fiorica (Fiorica). The Declaration is incorporated into this Petition as though fully set forth
24 herein.

25 **FACTUAL BACKGROUND**

26 22. Between August 2021 and April 2022, the Bureau received numerous complaints
27 regarding Respondent Oceanview and Respondent Smith. The majority of the complaints came
28 from surviving family members, who alleged that Respondent Oceanview held the remains of
their deceased loved ones for an inordinate amount of time before providing contracted cremation
services. The complaints further alleged that Respondents failed to return phone calls and e-mails
for weeks at a time, and that on occasion, the surviving family members were unable to contact
Respondents at all because the voice mailbox was full or the phone number was disconnected. A
series of investigations by Bureau Field Representative Fiorica substantiated the allegations, as
follows.

29 23. On or about February 28, 2022, Respondent Oceanview’s Funeral Establishment
30 License expired. Respondent Oceanview continued conducting the business of a funeral

1 establishment under the expired license, and did not renew it until on or about April 4, 2022.
2 During this period when its license was expired, Respondent Oceanview stored and transported
3 uncremated human remains, made arrangements for cremations, registered death certificates, and
4 obtained disposition permits.

5 24. On or about April 5, 2022, Respondent Oceanview moved its place of business from
6 the Bureau-approved address of 25180 Mission Boulevard in Hayward, California to an adjacent
7 storefront at 25176 Mission Boulevard. Respondent Oceanview did so without filing a change of
8 location form with the Bureau or surrendering its license to operate at its previous facility.
9 Respondent Oceanview then conducted the business of a funeral establishment out of the new
10 location, even though the location had not been inspected or approved by the Bureau.

11 25. Field Representative Fiorica interviewed Respondent Smith on multiple occasions
12 regarding the complaints against Respondent Oceanview. During these interviews, Respondent
13 Smith reported that he was having health and memory problems, and that in multiple cases he
14 simply forgot about the uncremated remains in Respondent Oceanview's possession. Respondent
15 Smith further admitted that Respondent Oceanview's main telephone number was disconnected
16 for an unspecified period of time in 2022, and that he neglected to return messages from
17 customers seeking updates on the status of their deceased loved ones.

18 **Decedent SL**

19 26. SL passed away on or about June 26, 2022, and her surviving spouse, JK, made
20 arrangements with Respondent Oceanview for funeral services.

21 27. Respondent Oceanview held SL's remains for approximately 46 days (June 26, 2022
22 to August 11, 2022) before transporting them for cremation. During this time, Respondent
23 Oceanview and Respondent Smith repeatedly failed to return JK's calls and messages.

24 28. Respondent Oceanview did not obtain JK's signature on any of the legally required
25 documents relating to SL's cremation.¹ In addition, Respondent Smith forged JK's signature and

26 _____
27 ¹ The required documents are an Authorization For Removal Of Human Remains form, a
28 Declaration for Disposition of Cremated Remains form, a Disclosure Of Preneed Funeral
Agreement form, an Authorization To Accept Or Decline Embalming form, and a Statement Of
Funeral Goods And Services Selected form.

1 initials on the Cremation Authorization and Declaration for Disposition of Cremated Remains.
2 The crematory staff, believing the forged documents to be valid, went forward with the cremation
3 of SL's remains on or about August 11, 2021. Later that day, Respondent Smith e-mailed the
4 required documents to JK and asked her to sign them after the fact.

5 29. Respondent Oceanview did not register SL's death certificate or receive a disposition
6 permit for SL's remains until July 28, 2021, 32 days after SL's death and well in excess of the 8-
7 day period required by law.

8 30. When interviewed about the issues surrounding SL's funeral services, Respondent
9 Smith admitted forging JK's signature and initials on the Cremation Authorization and
10 Declaration for Disposition of Cremated Remains forms, stating, "I did that. I DocuSigned those.
11 I do it all the time," or words to that effect. Respondent further admitted that he "forgot to follow
12 up" with JK regarding SL's cremation, or words to that effect.

13 **Decedent JB**

14 31. On or about August 24, 2021, Respondent Oceanview's website advertised direct
15 cremation for \$769.00, with "no hidden costs or fees." The surviving sister of decedent JB saw
16 the advertisement and called Respondent Oceanview to purchase the direct cremation package.
17 However, Respondent Smith quoted her a price of \$849.50, which included the base price of
18 \$769.00 along with additional fees not listed anywhere on the website. Respondent Smith later
19 quoted a price of over \$3,000, explaining that the extra charge was due to the decedent's weight.

20 **Decedent JG**

21 32. JG passed away on or about November 5, 2021. Respondent Oceanview took
22 custody of JG's remains that same day, pursuant to unpaid preneed arrangements made by JG's
23 daughter, PP.

24 33. Respondent Oceanview held JG's remains for approximately 33 days (November 5,
25 2021 to December 8, 2021) before transporting them for cremation. During this time, PP
26 repeatedly called Respondents to find out the status of her father's cremation; however,
27 Respondents failed to return her messages. On other occasions, PP was unable to reach
28 Respondents because the voice mailbox was full or the number was out of service.

1 34. On or about December 7, 2021, Respondent Smith signed a Declaration for
2 Disposition of Cremated Remains form, falsely attesting that he had the legal right to authorize
3 JG’s cremation. The form also incorrectly listed Castro Valley Crematorium Inc. as the place of
4 cremation.

5 35. Respondent Oceanview failed to complete a Disclosure of Preneed Funeral
6 Agreement form regarding JG.

7 36. Respondent Oceanview did not register JG’s death certificate or receive a disposition
8 permit for JG’s remains until on or about December 7, 2021, 32 days after JG’s death and well in
9 excess of the 8-day period required by law.

10 37. On or about January 21, 2022, in the course of investigating the complaint regarding
11 JG, Field Representative Fiorica attempted to call Respondent Oceanview at its telephone number
12 of record; however, the voice mailbox was full and he was unable to leave a message. Field
13 Representative Fiorica then tried an alternative phone number that he found on Respondent
14 Oceanview’s website, but this voice mailbox was full as well. A call to a third number associated
15 with Respondent Oceanview ended with the same result—a recorded greeting stating that the
16 mailbox was full, with no way to leave a message.

17 38. When interviewed about the issues surrounding JG’s funeral services, Respondent
18 Smith admitted that he failed to return PP’s calls, stating, “I wasn’t having problems with the
19 phone, I was having problems with me,” or words to that effect. Respondent Smith reported that
20 he was having health and memory loss problems. When asked why he did not have PP sign the
21 Declaration for Disposition of Cremated Remains form, Respondent Smith stated, “She was
22 already mad at me,” or words to that effect.

23 **Decedent ET**

24 39. ET passed away on or about December 13, 2021, and Respondent Oceanview took
25 custody of ET’s remains on or about December 14, 2021. Respondent Oceanview did not register
26 ET’s death certificate or obtain a disposition permit for ET’s remains until on or about March 11,
27 2022, 88 days after ET’s death and well in excess of the 8-day period required by law.

28 ///

1 **Decedent RC-1**

2 40. RC-1 passed away on or about December 22, 2021, and Respondent Oceanview took
3 custody of RC-1's remains on or about December 24, 2021. Respondent Oceanview did not
4 register RC-1's death certificate or obtain a disposition permit for RC-1's remains until on or
5 about February 4, 2022, 44 days after RC-1's death and well in excess of the 8-day period
6 required by law.

7 **Decedent AM**

8 41. AM passed away on or about January 7, 2022, and Respondent Oceanview took
9 custody of AM's remains approximately two to three days later. Respondent Oceanview did not
10 register AM's death certificate or obtain a disposition permit for AM's remains until on or about
11 February 22, 2022, 46 days after AM's death and well in excess of the 8-day period required by
12 law.

13 **Decedent DS**

14 42. DS passed away on or about November 11, 2021, and Respondent Oceanview took
15 custody of his remains on or about November 23, 2021, pursuant to arrangements made by DS's
16 nephew, JS.

17 43. Respondent Oceanview held DS's remains for approximately 130 days before
18 transporting them for cremation. During this time, JS repeatedly called Respondents and left
19 multiple voice messages, none of which were returned. On another occasion, JS was answered
20 with a recording that Respondent Oceanview's phone number was out of service. On the one
21 occasion that JS did speak to Respondent Smith, on or about January 25, 2022, Respondent Smith
22 falsely stated that the delay in cremation was caused by "problems with the paperwork."

23 44. The Statement of Funeral Goods and Services Selected, signed by JS on or about
24 November 11, 2021, falsely listed Respondent Oceanview's address as 21365 Mission Boulevard
25 in Hayward.

26 45. Respondent Oceanview did not register DS's death certificate or receive a disposition
27 permit for DS's remains until on or about March 21, 2022, approximately 130 days after DS's
28 death and well in excess of the 8-day period required by law.

1 46. On or about April 11, 2022, when interviewed about the issues surrounding DS's
2 funeral services, Respondent Smith stated that he "forgot" DS's remains were in Oceanview's
3 custody. Respondent Smith reported that he had been hospitalized, was experiencing memory
4 loss, and "just haven't been right," or words to that effect. Respondent Smith admitted that he did
5 not return several of JS's messages, and that he had "temporarily taken down" Respondent
6 Oceanview's main business number for an unspecified period of time, or words to that effect.

7 **Decedent CMA**

8 47. CMA passed away on or about November 7, 2021. That same day, Respondent
9 Oceanview took custody of CMA's remains pursuant to arrangements made by CMA's
10 granddaughter, RQ.

11 48. Respondent Oceanview held CMA's remains for approximately 120 days before
12 transporting them for cremation. During this time, RQ repeatedly called and e-mailed
13 Respondents, but received no answers to her messages. On other occasions, RQ was unable to
14 leave a voice message because Respondent Oceanview's voice mailbox was full; on another, RQ
15 received a recorded message that the number had been disconnected. RQ finally made contact
16 with Respondent Smith on March 7, 2022, at which time Respondent Smith falsely stated that the
17 cremation would occur on March 14, 2022.

18 49. CMA's remains were not cremated until March 24, 2022. Thereafter, Respondent
19 Smith stored the temporary urn containing CMA's remains on the floor of Respondent
20 Oceanview's new, unapproved facility at 25176 Mission Boulevard.

21 50. The Declaration for Disposition of Cremated Remains form regarding CMA did not
22 contain specific instructions as to the manner, location, and other pertinent details regarding the
23 disposition of CMA's remains. Instead, the form stated only, "Return cremated remains to RQ."

24 51. The Statement of Funeral Goods and Services Selected and Authorization for
25 Removal of Human Remains regarding CMA falsely listed Respondent Oceanview's address as
26 21365 Mission Boulevard in Hayward.

1 52. Respondent Oceanview did not register CMA’s death certificate or receive a
2 disposition permit for CMA’s remains until on or about March 7, 2022, 120 days after CMA’s
3 death and well in excess of the 8-day period required by law.

4 53. On or about April 11, 2022, when interviewed about the issues surrounding CMA’s
5 funeral services, Respondent Smith stated that he “probably” did not return messages from RQ,
6 and that he was “possibly” dishonest with her about what caused the delay in CMA’s cremation,
7 or words to that effect. Respondent Smith reported that he was having “tough memory loss,” or
8 words to that effect.

9 **Decedent RC-2**

10 54. RC-2 passed away on or about December 31, 2021. That same day, Respondent
11 Oceanview took custody of RC-2’s remains pursuant to a pre-paid cremation arrangement made
12 by RC-2 through an insurance company.

13 55. Respondent Oceanview held RC-2’s remains for approximately 77 days, after which
14 RC-2’s surviving son, RC-2 Jr., arranged for a different establishment to handle the funeral
15 arrangements. During this time, RC-2 Jr. called Respondents repeatedly, but his messages were
16 not returned. On other occasions, RC-2 Jr. was unable to leave a message because the voice
17 mailbox was full.

18 56. RC-2 Jr. also sent a series of text messages to Respondent Smith, seeking information
19 about RC-2’s death certificate. The majority of the messages went unanswered, except on or
20 about February 24, 2022, when Respondent Smith falsely indicated that RC-2’s death certificate
21 would be registered the next day.

22 57. RC-2 Jr. made arrangements for the other funeral establishment to take possession of
23 RC-2’s uncremated remains on or about March 17, 2022. At that point, Respondent Oceanview
24 had still not registered RC-2’s death certificate or received a disposition permit for RC-2’s
25 remains, even though 77 days had passed since RC-2’s death.

26 58. On or about April 11, 2022, when interviewed about the issues surrounding RC-2’s
27 funeral services, Respondent Smith acknowledged that he did not return several voicemails and
28

1 text messages sent by RC-2 Jr. When asked whether he misled RC-2 Jr. about the status of RC-
2 2's death certificate, Respondent Smith stated, "I probably did," or words to that effect.

3 **Decedent AV**

4 59. AV passed away on or about January 20, 2022. On or about January 21, 2022, AV's
5 daughter, MV, made arrangements with Respondent Oceanview for AV's cremation. AV's son,
6 GV, paid for the services in full. Respondent Smith falsely told MV that the crematory "was
7 really backed up," or words to that effect, and that the cremation would occur in approximately
8 15 days.

9 60. Respondent Oceanview failed to take possession of AV's remains until January 25,
10 2022, and did so only after the hospital where AV died contacted MV to inform her that AV's
11 remains were still in their facility.

12 61. Respondent Oceanview held AV's remains for approximately 68 days (January 25,
13 2022 through April 4, 2022) before MV arranged for another establishment to handle the funeral
14 services. During this time, MV left numerous voicemails, none of which received a response. On
15 other occasions, MV was unable to leave a message because the mailbox was full; in one
16 instance, she was answered with a recording that the number had been disconnected. On the
17 occasions when MV was able to reach Respondent Smith, Respondent Smith told her that he was
18 not in the office and would call her back. Respondent Smith failed to do so.

19 62. The Declaration for Disposition of Cremated Remains form, signed by MV on or
20 about January 21, 2022, did not contain specific instructions as to the manner, location, and other
21 pertinent details regarding the disposition of AV's remains. Instead, the form stated only,
22 "Return cremated remains to MV."

23 63. Respondent Oceanview did not register AV's death certificate or receive a
24 disposition permit for AV's remains until on or about March 24, 2022, 60 days after AV's death
25 and well in excess of the 8-day period required by law.

26 64. Respondent Oceanview did not proactively refund the payment for AV's funeral
27 service; rather, GV had to file a chargeback complaint with his bank to obtain a refund for
28 services not provided.

1 65. On or about April 11, 2022, when interviewed about the issues surrounding AV's
2 funeral services, Respondent Smith reported that the delay in arranging for AV's cremation was
3 the result of needing a coroner's number for the applicable paperwork; however, AV's death was
4 not investigated by the county coroner.

5 **2022 Citations**

6 66. On or about January 28, 2022, the Bureau issued Citations IC 2021 229 and IC 2022
7 34 to Respondent Oceanview and Respondent Smith, respectively, for (a) failing to include the
8 establishment's license number in advertisements (Cal. Code Regs., tit. 16, § 1211, subd. (a)); (b)
9 engaging in false and misleading advertising (Code § 7693); and (c) failure to supervise (Cal.
10 Code Regs., tit. 16, § 1204, subd. (b)). Specifically, Respondent Oceanview's website provided
11 an outdated address, falsely suggested that the establishment had been in business for over 35
12 years, and falsely advertised pet cemetery services. The citations are now final.

13 **Previous Citations**

14 67. On or about October 17, 2018, the Bureau issued Citations IC 2018 126 and IC 2018
15 358 to Respondent Oceanview and Respondent Smith, respectively, for: (a) failing to refrigerate
16 the unembalmed remains of decedents MB, KC, and SG within 24 hours of receipt (Cal. Code
17 Regs., tit. 16, § 1223, subd. (c)); (b) failing to have the correct casket disclaimer on the casket
18 price list (Cal. Code Regs., tit. 16, § 1258); (c) failing to file death certificates for NB, KC, and
19 SG within eight calendar days after death (Health & Saf. Code, § 102775); (d) unprofessional
20 conduct, specifically, the acts described in (a)-(c) above (Code, § 7707); and (e) failure to
21 supervise (Cal. Code Regs., tit. 16, § 1204, subd. (b)). The citations are now final.

22 68. On or about February 4, 2020, the Bureau issued Citations IC 2019 462 and IC 2020
23 31 to Respondent Oceanview and Respondent Smith, respectively, for: (a) failing to have an
24 approved, suitable room for the storage of human remains (Code, § 7616, subd. (a)(1)); (b) failing
25 to properly document the location and disposition on the Declaration for Disposition of Cremated
26 Remains forms for decedents JP, CW, and DH (Code, § 7685.2, subd. (b)); (c) unprofessional
27 conduct, specifically, failing to provide the Bureau with documentation that accurately reflected
28 the storage location of multiple decedent and failing to cooperate with the Bureau's investigation

1 (Code, § 7707); and (d) failure to supervise (Cal. Code Regs., tit. 16, § 1204, subd. (b)). The
2 citations are now final.

3 69. On or about February 13, 2020, the Bureau issued Citations IC 2019 500 and IC
4 2020 40 to Respondent Oceanview and Respondent Smith, respectively, for: (a) unprofessional
5 conduct (Code, § 7707); and (b) failure to supervise (Cal. Code Regs., tit. 16, § 1204, subd. (b)).
6 Specifically, Respondents failed to timely communicate information regarding the availability of
7 decedent CW's remains. The citations are now final.

8 70. On or about September 1, 2020, the Bureau issued Citation IC 2020 344 to
9 Respondent Smith for failure to supervise after an investigation revealed that Respondent
10 Oceanview did not obtain an Authorization to Accept or Decline Embalming form for decedent
11 MA (Cal. Code Regs., tit. 16, §§ 1204, subd. (b), § 1214). The citation is now final.

12 **CAUSE FOR INTERIM SUSPENSION ORDER**

13 71. Based on the conduct described in paragraphs 22-71, above, cause exists for issuance
14 of an interim suspension order pursuant to Code section 494, subdivision (a), because:

15 (a) Respondent Oceanview has engaged in acts or omissions that violate:

- 16 • Code section 7617 (operating without a valid license)
- 17 • Code section 7628 (changing location without application/inspection)
- 18 • Code section 7685.2, subdivision (a) (failing to provide Memorandum of
19 Goods and Services)
- 20 • Code section 7685.2, subdivision (b) (failing to obtain legally compliant
21 Declaration for Disposition of Cremated Remains)
- 22 • Code section 7617 (fraud/misrepresentation)
- 23 • Code section 7693 (false/misleading advertising)
- 24 • Code section 7707 (unprofessional conduct)
- 25 • Health and Safety Code section 102775 (failing to timely register death
26 certificates)
- 27 • Health and Safety Code section 103070 (holding a body more than 8
28 calendar days without a permit for disposition)

- California Code of Regulations, title 16, section 1210 (failing to surrender license upon change of address)
- California Code of Regulations, title 16, section 1277.5 (failing to obtain signed Disclosure of Preneed Funeral Agreement forms)

(b) Respondent Smith has engaged in acts or omissions that violate:

- Code section 7617 and Health and Safety Code section 7110 (fraud/misrepresentation regarding cremation authorization)
- Code section 7707 (unprofessional conduct)
- California Code of Regulations, title 16, section 1204, subdivision (b) (failing to exercise direct supervision and control to ensure full compliance with the law)

(c) Permitting Respondent Oceanview and Respondent Smith to continue in the funeral establishment business, with or without restrictions, would endanger the public health, safety, or welfare.

72. If a decision granting the Petition is issued, Complainant is prepared to file an Accusation within 15 days of that decision, and to proceed to hearing on the Accusation within 30 days of receiving a Notice of Defense in response to the Accusation.

PRAYER

WHEREFORE, Complainant prays that the Administrative Law Judge of the Office of Administrative Hearings make an order:

1. Temporarily suspending Funeral Establishment License No. FD 2082, issued to Respondent Oceanview Cremations;
2. Temporarily suspending Funeral Director License No. FDR 781, issued to Respondent Robert C. Smith, Sr.
3. Prohibiting Respondent Oceanview from directly or indirectly conducting business as a funeral establishment in California, until a hearing can be held, the charges in an Accusation can be heard, and a decision of the Bureau can be issued and made effective determining whether Respondent Oceanview should continue to hold a license to conduct the business of a funeral

1 establishment and, if so, under what conditions, if any, that license should continue;

2 4. Prohibiting Respondent Smith from directly or indirectly practicing as a funeral
3 director in California, until a hearing can be held, the charges in an Accusation can be heard, and
4 a decision of the Bureau can be issued and made effective determining whether Respondent
5 Smith should continue to hold a license to practice as a funeral director and, if so, under what
6 conditions, if any, that license to practice should continue;

7 5. Taking such other and further action as is deemed necessary and proper

8

9 DATED: 11/17/2022

SIGNATURE ON FILE _____

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

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