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

In the Matter of the Accusation Against:

**MARK B. ALLEN MORTUARY AND  
CREMATION SERVICES INC., MARK B.  
ALLEN JR.  
8127 San Fernando Road  
Sun Valley, CA 91352**

**Funeral Establishment License No. FD 2176,**

**and**

**MARK B. ALLEN JR.  
8101 San Fernando Road  
Sun Valley, CA 91352**

**Funeral Director License No. FDR 3297**

Respondents.

Case No. I-2021-162/A1-2020-132

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]



1 files a notice of defense . . . and the notice shall be deemed a specific denial of all  
2 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense  
3 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its  
4 discretion may nevertheless grant a hearing.

5 7. The Bureau takes official notice of its records and the fact that Respondents failed to  
6 file a Notice of Defense within 15 days after Services upon them of the Accusation, and therefore  
7 waived their right to a hearing on the merits of Accusation No. I-2021-162/A1-2020-132.

8 8. California Government Code section 11520(a) states, in pertinent part:

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

13 9. Pursuant to its authority under Government Code section 11520, the Director finds  
14 Respondents are in default. The Director will take action without further hearing and, based on  
15 the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this  
16 matter, as well as taking official notice of all the investigatory reports, exhibits and statements  
17 contained therein on file at the Director's offices regarding the allegations contained in  
18 Accusation No. I-2021-162/A1-2020-132, finds that the charges and allegations in Accusation  
19 No. I-2021-162/A1-2020-132, are separately and severally, found to be true and correct by clear  
20 and convincing evidence.

21 10. The Director finds that the actual costs for Investigation and Enforcement are  
22 \$28,739.17 as of July 28, 2021.

### 23 **DETERMINATION OF ISSUES**

24 1. Based on the foregoing findings of fact, Respondent and Respondent Allen have  
25 subjected its Funeral Establishment License No. FD 2176 and Funeral Director License No. FDR  
26 3297 to discipline.

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

28 3. The Director is authorized to revoke Respondent's Funeral Establishment License and  
Respondent Allen's Funeral Director License based upon the following violations alleged in the  
Accusation which are supported by the evidence contained in the Default Decision Investigatory  
Evidence Packet in this case:

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- a. Unpermitted Storage of Human Remains – Business and Professions Code section 7616 subsection (a) subdivision (1)
- b. Failure to Maintain Records – Business and Professions Code section 7685.2 subsection (b)
- c. Failure to Cooperate with Investigation – Business and Professions Code section 7687
- d. Unprofessional Conduct – Business and Professions Code section 7707
- e. Failure to File Death Certificate in Timely Manner – Health and Safety Code section 102775
- f. Failure of Licensed Funeral Director to Supervise and Control – California Code of Regulations, title 16, section 1204, subdivision (b)
- g. Failure to Properly Complete and Submit Forms – California Code of Regulations, title 16, section 1214

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**ORDER**

IT IS SO ORDERED that Funeral Establishment License No. FD 2176, issued to Respondent Mark B. Allen Mortuary and Cremation Services Inc., Mark B. Allen Jr. and Funeral Director License No. FDR 3297, issued to Respondent Mark B. Allen Jr., are revoked.

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

This Decision shall become effective on September 28, 2021.

It is so ORDERED August 13, 2021

SIGNATURE ON FILE  
\_\_\_\_\_  
RYAN MARCROFT  
DEPUTY DIRECTOR, LEGAL AFFAIRS  
DEPARTMENT OF CONSUMER AFFAIRS

FINAL DEFAULT MARK B ALLEN.DOCX  
DOJ Matter ID:LA2021601279

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 ROB BONTA  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 MELISSA TYNER  
Deputy Attorney General  
4 State Bar No. 269649  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6314  
6 Facsimile: (916) 731-2126  
E-mail: Melissa.Tyner@doj.ca.gov  
7 *Attorneys for Complainant*

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 Accusation Against:

Case No. I-2021-162/A1-2020-132

14 **MARK B. ALLEN MORTUARY AND**  
15 **CREMATION SERVICES INC., MARK B.**  
16 **ALLEN JR.**

**ACCUSATION**

17 **8127 San Fernando Road**  
**Sun Valley, CA 91352**

18 **Funeral Establishment License No. FD 2176,**

19 **and**

20 **MARK B. ALLEN JR.**  
21 **8101 San Fernando Road**  
22 **Sun Valley, CA 91352**

23 **Funeral Director License No. FDR 3297**

24 Respondents.

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**PARTIES**

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

2. On or about September 5, 2013, the Bureau issued Funeral Establishment License No. FD 2176 to Mark B. Allen Mortuary and Cremation Services Inc., Mark B. Allen Jr. (Respondent). The Funeral Establishment License expires on September 30, 2021, unless renewed.

3. On or about October 25, 2010, the Bureau issued Funeral Director License No. FDR 3297 to Mark B. Allen Jr. (Respondent Allen). The Funeral Director License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2021, unless renewed.

**JURISDICTION**

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

5. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Section 7686 of the Code states:

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



**STATUTORY PROVISIONS**

7. Section 7616 of the Code states:

(a) A licensed funeral establishment is a place of business conducted in a building or separate portion of a building having a specific street address or location and devoted exclusively to those activities as are incident, convenient, or related to the preparation and arrangements, financial and otherwise, for the funeral, transportation, burial or other disposition of human remains and including, but not limited to, either of the following:

(1) A suitable room for the storage of human remains.

8. Section 7633 of the Code states:

No funeral director shall charge a fee for filing a certificate of death or for providing copies thereof in excess of fees set by statute for filing and providing certified copies of such certificates.

9. Section 7685.2 of the Code states:

(a) A funeral director shall not enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until he or she has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, provided that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of his or her facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery, crematory, or hydrolysis facility charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation or hydrolysis and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains or hydrolyzed human remains. The bureau shall

1 make available a form upon which the declaration shall be made. The form shall  
2 include, but not be limited to, the names of the persons with the right to control the  
3 disposition of the cremated remains or hydrolyzed human remains and the person  
4 who is contracting for the cremation or hydrolysis services; the name of the deceased;  
5 the name of the funeral establishment in possession of the remains; the name of the  
6 crematorium or hydrolysis facility; and specific instructions regarding the manner,  
7 location, and other pertinent details regarding the disposition of cremated remains or  
8 hydrolyzed human remains. The form shall be signed and dated by the person  
9 arranging for the cremation or hydrolysis and the funeral director, employee, or agent  
10 of the funeral establishment in charge of arranging or prearranging the cremation or  
11 hydrolysis service.

12 (c) A funeral director entering into a contract to furnish cremation or hydrolysis  
13 services shall provide to the purchaser of cremation or hydrolysis services, either on  
14 the first page of the contract for cremation or hydrolysis services, or on a separate  
15 page attached to the contract, a written or printed notice containing the following  
16 information:

17 (1) A person having the right to control disposition of cremated remains or  
18 hydrolyzed human remains may remove the remains in a durable container from the  
19 place of cremation, hydrolysis, or interment, pursuant to Section 7054.6 of the Health  
20 and Safety Code.

21 (2) If the cremated remains container or hydrolyzed human remains container  
22 cannot accommodate all cremated remains or hydrolyzed human remains of the  
23 deceased, the crematory or hydrolysis facility shall provide a larger cremated remains  
24 container or hydrolyzed human remains container at no additional cost, or place the  
25 excess in a second container that cannot easily come apart from the first, pursuant to  
26 Section 8345 of the Health and Safety Code.

27 (d) This section shall become operative on July 1, 2020.

28 10. 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.

11. Health and Safety Code Section 102775 states:

Each death shall be registered with the local registrar of births and deaths in the  
district in which the death was officially pronounced or the body was found, within  
eight calendar days after death and prior to any disposition of the human remains.

### **REGULATORY PROVISIONS**

12. California Code of Regulations, title 16, section 1204(b) states:

(b) The designated managing licensed funeral director of a licensed funeral  
establishment shall be responsible for exercising such direct supervision and control  
over the conduct of said funeral establishment as is necessary to ensure full  
compliance with the Funeral Directors and Embalmers Law, the provisions of this  
chapter and the applicable provisions of the Health and Safety Code. Failure of the  
designated managing licensed funeral director and/or the licensed funeral  
establishment to exercise such supervision or control, or failure of the holder of the

1 funeral establishment license to make such designation shall constitute a ground for  
2 disciplinary action.

3 13. California Code of Regulations, title 16, section 1214 states:

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

### 11 **COST RECOVERY**

12 14. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the  
13 administrative law judge to direct a licentiate found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case.

### 16 **FACTUAL ALLEGATIONS**

17 15. On or about June 22, 2020 the Bureau opened an investigation after receiving a  
18 complaint from D. R. <sup>1</sup> alleging the Respondent failed to return phone calls or provide updates on  
19 her uncle, J. R. Namely, Respondent failed to release J. R.'s death certificates to the family or  
20 provide confirmation that his cremated remains had been scattered as requested.

21 16. The investigation found that there were two different versions of the Declaration for  
22 Disposition of Cremated Remains for J. R. One copy, signed by D. R. on April 15, 2020, stated  
23 that J. R. would be cremated by All Caring Solutions. However, All Caring Solutions dissolved  
24 their business relationship with Respondent on or about November 20, 2019. The other version of  
25 the Declaration for Disposition of Cremated Remains for J. R stated that Evergreen Crematory  
26 would cremate the remains. Neither copy was the correct version of the document provided by the  
27 Bureau. On or about April 15, 2020, D. R. also signed an Authorization to Accept of Decline  
28 Embalming wherein the deceased was to be stored at All Caring Solutions.

17 17. The investigation revealed that J. R. died on April 10, 2020, and the death certificate  
18 information was provided by the family to Respondents on April, 16, 2020. The death certificate  
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28 <sup>1</sup> Initials are used in lieu of full names in order to protect the privacy rights of said individuals.

1 was not filed by Respondents until May 20, 2020, 40 (forty) days after the provision of  
2 information.

3 18. Over the course of the investigation, the Bureau field representative made multiple  
4 attempts to contact Respondent regarding the status of the remains of J. R. Specifically, the  
5 Bureau field representative made the following attempts to contact Respondent:

- 6 • June 22, 2020 called and left message
- 7 • July 1, 2020 called and left message
- 8 • July 6, 2020 called and left message
- 9 • July 9, 2020 called and left message
- 10 • July 9, 2020 mailed letter to Respondent requiring response by July 24, 2020.

11 19. On or about July 17, 2020, the Bureau field representative travelled to Mark B. Allen  
12 Mortuary and Cremation Services. The front and back doors of the building were locked and no  
13 employees were present. The Bureau field representative called Respondent and was told no one  
14 was at the facility and no one could help him.

15 20. On or about July 29, 2020, the Bureau field representative returned to the premises.  
16 Respondent stated that J. R.'s cremated remains were given to Captain Johnnie Lee to be  
17 scattered at sea. However, the Bureau field representative observed the cremation container for  
18 J. R. still in the cremation vault during his site visit.

19 21. On or about July 29, 2020, during the Bureau field representative's site visit to Mark  
20 B. Allen Mortuary and Cremation Services he observed a cold storage room that contained the  
21 remains of two decedents wrapped in sheets on a rolling table, two decedents in cremation  
22 containers, and one decedent in a casket (a total of five individuals on site). The Bureau  
23 representative estimated the temperature in the unpermitted cold storage room was approximately  
24 60 (sixty) degrees Fahrenheit and shared his concern about the temperature not being cold enough  
25 to slow or stop decomposition to Respondent.

26 22. Further investigation into the Bureau's records and zoning information revealed the  
27 building is not zoned to permit the storage of human remains onsite and there was no approval  
28 from the Bureau for such storage. Respondent submitted an application to the Bureau on October

1 8, 2020, for preparation and storage and on or about November 2, 2020, the Bureau issued a  
2 deficiency letter explaining why the request was denied and what Respondent would need to  
3 remedy before his application would be approved. To date, the Bureau has received no further  
4 information from Respondent.

5 23. On or about February 24, 2021, the Bureau field representative conducted another site  
6 visit to Mark B. Allen Mortuary and Cremation Services following up on additional consumer  
7 complaints regarding the failure to release remains of family members for final dispositions.  
8 During the site visit the Bureau field representative immediately noticed the strong, noxious odor  
9 of decomposition inside Respondent's facility. The Bureau field representative discovered several  
10 remains in the unpermitted cold storage unit.

11 24. On or about April 17, 2021, the Bureau received a complaint from V. A. alleging the  
12 Respondents failed to cremate the body of her father, H. A. and failed to return phone calls.

13 25. On or about April 23, 2021, the Bureau field representative received a phone call from  
14 a Los Angeles Police Department Detective in the Foothill Division (Detective). The Detective  
15 stated that his office received multiple complaints about Respondent Allen withholding the  
16 remains of decedents from families. The Detective also shared that he visited Respondent Allen's  
17 facility on April 22, 2021, and noticed a very strong, foul odor of decomposition in and around  
18 the building. The Bureau initiated coordination effort to remove the remains from Respondent's  
19 facility.

20 26. On or about April 27, 2021, the Bureau field representative arrived at Mark B. Allen  
21 Mortuary and Cremation Services and could smell the odor of decomposition from the exterior of  
22 the building. The Bureau field representative also observed a small swarm of flies buzzing around  
23 the exterior exhaust vent from the unpermitted cold storage. The Detective and approximately six  
24 employees from the Los Angeles Coroner's Office also arrived. The remains of 11 (eleven)  
25 individuals were discovered in the cold storage unit. The smell of decomposition was foul and  
26 overwhelmingly strong. Ultimately, 9 (nine) of the 11 (eleven) remains were removed from the  
27 unpermitted cold storage unit at Respondents facility. The body of H. A. was among the remains  
28 in the unpermitted cold storage.



1 Respondents refused, on two occasions, after the seizure of human remains from its unpermitted  
2 cold storage site to allow Bureau field representative to conduct a follow up site inspection.  
3 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
4 paragraphs 15-28, as though set forth fully.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct)**

7 32. Respondent's Funeral Establishment License and Respondent Allen's Funeral  
8 Director License are subject to disciplinary action under Code section 7707. Respondents failed  
9 to return D. R.'s phone calls, failed to release death certificates in a timely manner, and failed to  
10 confirm the scattering of J. R.'s remains at sea per their agreement. Respondent continued to  
11 operate an unpermitted cold storage unit onsite. Complainant refers to, and by this reference  
12 incorporates, the allegations set forth above in paragraphs 15-28, as though set forth fully.

13 **FIFTH CAUSE FOR DISCIPLINE**

14 **(Failure to File Death Certificate in Timely Manner)**

15 33. Respondent's Funeral Establishment License and Respondent Allen's Funeral  
16 Director License are subject to disciplinary action under Health and Safety Code section 102775.  
17 The investigation revealed that J. R. died on April 10, 2020 and the death certificate information  
18 was provided by the family to Respondents on April, 16, 2020. The death certificate was not filed  
19 by Respondents until May 20, 2020, 40 (forty) days after the provision of information.  
20 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
21 paragraphs 15-28, as though set forth fully.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 **(Failure of Licensed Funeral Director to Supervise and Control)**

24 34. Respondent Allen's Funeral Director License is subject to disciplinary action under  
25 California Code of Regulations, title 16, sections 1204, subdivision (b). Complainant refers to,  
26 and by this reference incorporates, the allegations set forth above in paragraphs 15-28, as though  
27 set forth fully.

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**SEVENTH CAUSE FOR DISCIPLINE**

**(Failure to Properly Complete and Submit Forms)**

35. Respondent’s Funeral Establishment License and Respondent Allen’s Funeral Director License are subject to disciplinary action under California Code of Regulations, title 16, sections 1214, in that Respondents failed to properly use designated Bureau forms. Respondents wrongfully cited All Caring Solutions as the preparation and storage facility. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 15-28, as though set forth fully.

**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 Funeral Establishment License No. FD 2176, issued to Mark B. Allen Mortuary and Cremation Services Inc., Mark B. Allen Jr.;
- 2. Revoking Funeral Director License No. FDR 3297, issued to Mark B. Allen Jr.;
- 3. Ordering Mark B. Allen Mortuary and Cremation Services Inc. and Mark B. Allen Jr. 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: 7/2/21

**SIGNATURE ON FILE**  
\_\_\_\_\_  
GINA SANCHEZ  
Bureau Chief  
Cemetery and Funeral Bureau  
Department of Consumer Affairs  
State of California  
*Complainant*



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