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7

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

11 In the Matter of the Accusation Against:

Case No. A1 2014 141

12 **SOLOMONS MORTUARY, WILLIE C.**
13 **SOLOMON, SR., MANAGER, WILLIE C.**
14 **SOLOMON, JR., LILLIE W. DOBSON**
10625 S. Broadway
15 Los Angeles, CA 90003
Funeral Establishment License No. FD 1428

A C C U S A T I O N

16 **WILLIE C. SOLOMON, SR.**
10625 S. Broadway
17 Los Angeles, CA 90003
Funeral Director License No. FDR 2338

18 Respondents.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Lisa M. Moore (Complainant) brings this Accusation solely in her official capacity as
23 the Bureau Chief of the Cemetery and Funeral Bureau, Department of Consumer Affairs.¹
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26 ¹ Effective January 1, 1996, the Department of Consumer Affairs succeeded to, and was
27 vested with, all the duties, powers, purpose, responsibilities and jurisdiction of the Cemetery
28 Board and the Board of Funeral Directors and Embalmers, and consolidated the functions into the
Cemetery and Funeral Programs. Effective January 1, 2001, the regulatory agency is designated
as the Cemetery and Funeral Bureau.

1 2. On or about April 25, 1985, the Cemetery and Funeral Bureau issued Funeral
2 Establishment License Number FD 1428 to Solomons Mortuary, Willie C. Solomon, Sr., Manager
3 and President; Willie C. Solomon, Jr., Vice-President; Lillie W. Dobson, Treasurer
4 (Respondents). The Funeral Establishment License was in full force and effect at all times
5 relevant to the charges brought herein and will expire on April 30, 2015, unless renewed.

6 3. On or about March 12, 2003, the Cemetery and Funeral Bureau issued Funeral
7 Director License Number FDR 2338 to Willie C. Solomon, Sr. The Funeral Director License was
8 in full force and effect at all times relevant to the charges brought herein and will expire on March
9 31, 2015, unless renewed.

10 4. On or about January 6, 1968, the Cemetery and Funeral Bureau issued Embalmer
11 License Number EMB 5677 to Willie C. Solomon, Sr. The Embalmer License was in full force
12 and effect at all times relevant to the charges brought herein and will expire on January 31, 2016,
13 unless renewed.

14 JURISDICTION

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

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

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

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1 8. Section 769 of the Code states: "Misrepresentation or fraud in the conduct of the
2 business or the profession of a funeral director or embalmer constitutes a ground for disciplinary
3 action."

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

7 10. Section 7735 of the Code states: "No funeral establishment licensed under the laws
8 of the State of California, or the agents or employees of a funeral establishment, shall enter into or
9 solicit any pre-need arrangement, contract, or plan, hereinafter referred to as "contract," requiring
10 the payment to the licensee of money or the delivery to the licensee of securities to pay for the
11 final disposition of human remains or for funeral services or for the furnishing of personal
12 property or funeral merchandise, wherein the use or delivery of those services, property or
13 merchandise is not immediately required, unless the contract requires that all money paid directly
14 or indirectly and all securities delivered under that agreement or under any agreement collateral
15 thereto, shall be held in trust for the purpose for which it was paid or delivered until the contract
16 is fulfilled according to its terms; provided, however, that any payment made or securities
17 deposited pursuant to this article shall be released upon the death of the person for whose benefit
18 the trust was established as provided in Section 7737. The income from the trust may be used to
19 pay for a reasonable annual fee for administering the trust, including a trustee fee to be
20 determined by the bureau, and to establish a reserve of not to exceed 10 percent of the corpus of
21 the trust as a revocation fee in the event of cancellation on the part of the beneficiary. The annual
22 fee for trust administration may be recovered by withdrawals from accumulated trust income,
23 provided that total withdrawals for this purpose shall not exceed the amount determined by the
24 bureau. In no case shall the total amount withdrawn in a year for trust administration exceed the
25 total amount of posted trust income for the immediate 12 preceding months. In addition to annual
26 fees and reserves authorized by this section, a trustee may, at its election, pay taxes on the
27 earnings on any trust pursuant to Section 17760.5 of the Revenue and Taxation Code. In no
28

1 event, however, shall taxes paid on the earnings of any trust be considered part of the fees or
2 reserves authorized by this section. All remaining income shall be accumulated in trust.

3 None of the corpus of the trust shall be used for payment of any commission nor shall
4 any of the corpus of the trust be used for other expenses of trust administration, or for the payment
5 of taxes on the earnings of the trust.”

6 11. Section 7737 of the Code states: “All securities purchased by the trustor for
7 deposit in trust and all money received from the trustor for deposit in trust shall be placed in trust
8 with a trustee within 30 days of their receipt by the funeral establishment pursuant to a trust
9 agreement executed by the funeral establishment, the trustor and trustee which shall provide that
10 the trustee shall hold the money or securities in trust for the purposes for which deposited and that
11 the trustee, upon the signature of a majority of such trustees, shall deliver the corpus of the trust to
12 the funeral establishment upon the filing of a certified copy of the death certificate or other
13 satisfactory evidence of the death of the beneficiary, together with satisfactory evidence that the
14 funeral establishment has furnished the merchandise and services, provided, however, that (1) in
15 the case of a trust agreement between any of the trustees set forth in Section 7736 and a recipient
16 of public assistance, under the provisions of subdivision (a) of Section 11158 or paragraph (1) of
17 subdivision (e) of Section 12152 of the Welfare and Institutions Code, and provided the value
18 limitations of those sections are not exceeded, such trust agreement may further provide that it is
19 irrevocable, and (2) in all other cases such trust agreement shall further provide that at any time
20 before the funeral establishment has furnished the merchandise and services provided for in the
21 contract the trustor or the legally appointed representative may in writing demand and receive the
22 return of the corpus of the trust, together with any income accrued in the trust, less the revocation
23 fee provided for in Section 7735; provided, however, that if and when the trustor becomes
24 otherwise eligible, or in order to become eligible, for public social services, as provided in
25 Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, he or she may
26 agree, at his or her option, that the trust shall be irrevocable in order to avail himself or herself of
27 the provisions of Section 11158 or Section 12152 of the Welfare and Institutions Code. The
28 delivery of the corpus of the trust and the accumulated income to the funeral establishment

1 performing the services, trustor or beneficiary pursuant to the terms of this article and the trust
2 agreement herein referred to, shall relieve the trustee of any further liabilities with regard to those
3 funds or income therefrom.”

4 12. Title 16, California Code of Regulations, section 1204, states, in pertinent part, that:

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

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

17 FIRST CAUSE FOR DISCIPLINE

18 (Failure to Place Pre-Need Funds in Trust Within 30 Days of Receipt)

19 14. Respondents Solomons Mortuary and Solomon have subjected their licenses to
20 disciplinary action under section 7686 for violating section 7737, in that Respondents failed to
21 deposit pre-needs funds in trust within thirty (30) days of their receipt of the money by the funeral
22 establishment. The circumstances are as follows:

23 a. On or about on March 8, 2010, Pearl Matthews (“Matthews”) went to Respondent
24 Solomons Mortuary and met with a funeral counselor regarding a preneed funeral arrangement
25 plan for her friend Carl Bee (“Bee”). Matthews returned to Solomons Mortuary on March 27,
26 2010 and gave an employee, Joseph Dunn (“Dunn”), a check for \$4,000.00 for Bee's preneed .
27 Dunn accepted the money and gave Matthews a receipt.

28

1 b. Dunn claimed to have turned the money over to Lillie Dobson (“Dobson”), the
2 secretary/treasurer of Solomons Mortuary; however Dobson did not recall receiving this money
3 for a preneed trust for Bee.

4 c. Subsequently, Bee wanted to relocate to another city and asked Matthews if he could
5 get a refund on his preneed plan. On June 20, 2014, Matthews called Solomons Mortuary and
6 spoke with Dunn regarding a preneed refund for Bee. Dunn told Matthews that she would have to
7 fill out a preneed cancellation form and it would take about two weeks to receive the preneed
8 refund. Matthews went to Solomons Mortuary on June 29, 2014, and completed the preneed
9 cancellation form.

10 d. After waiting approximately four weeks and not receiving a refund check, Matthews
11 called Solomons Mortuary regarding the preneed refund for Bee. Dunn told Matthews that she
12 would have to speak with Solomon regarding the refund. When Matthews spoke with Solomon
13 he told her that he was going through financial hardship and did not have the money to refund the
14 preneed. Solomon asked Matthews if she would give him time to pay the refund.

15 e. Following Matthews filing a complaint with the Board, Solomon stated to a board
16 investigator that the “folder” maintained in his records for Bee did not state that it was a preneed
17 payment and that it had a note stating to hold it for thirty days. Thereafter, Matthews was
18 refunded the \$4000 preneed payment by Solomons Mortuary.

19 SECOND CAUSE FOR DISCIPLINE

20 (Failure to Exercise Direct Supervision and Control)

21 15. Respondents Solomons Mortuary and Solomon have subjected their licenses to
22 disciplinary action under section 7686 in conjunction with violating 16 California Code of
23 Regulations sec. 1204, subd. (b). The circumstances are as alleged in the previous paragraph 14
24 and all subparts that are incorporate by reference as though fully set forth.

25 FACTORS IN AGGRAVATION

26 **Respondent, Solomons Mortuary**

27 16. To determine the degree of discipline, if any, to be imposed on Respondent
28 Solomons Mortuary, Complainant alleges that prior actions, the Cemetery and Funeral Bureau

1 issued the following Citations and ordered Respondent to pay the amounts set forth below. All
2 of the following citations are now final and are incorporated by reference as if fully set forth:

3 a. Citation IC 2010 178 issued on October 7, 2010, for violation of section 7692 (b)
4 "Misrepresentation and Fraud". Fine issued of \$1,001.00. Fine paid on June 28, 2011.

5 b. Citation IC 2010 248 issued on January 28, 2011, for violation of section 7707 'Gross
6 Negligence/ gross incompetence or unprofessional conduct'. Fine issued of \$1,001.00. Fine paid
7 on June 1, 2011.

8 c. Citation IC 2010 375 issued on January 21, 2011, for violation of section 7707 "Gross
9 Negligence/ gross incompetence or unprofessional conduct' and 7692 (b) "Misrepresentation and
10 Fraud'. Fine issued of \$2,002.00. Fine paid on June 28, 2011.

11 d. Citation IC 2010 279 issued on October 13, 2011, for violation of section 7707 'Gross
12 Negligence/ gross incompetence or unprofessional conduct'. Fine issued of \$1,001.00. Fine paid
13 on April 6,2012.

14 e. Citation IC 2013 144 issued on May 3, 2013, for violation of section 1258 for Price
15 List violations and CCR 1214 for failure to use Embalming Authorization. Fine issued of
16 \$1,002;00. Fine paid on July 23, 2013.

17 **Respondent, Willie C. Solomon, Sr.**

18 17. To determine the degree of discipline, if any, to be imposed on Respondent Willie C.
19 Solomon, Sr., Complainant alleges that in prior actions, the Cemetery and Funeral Bureau issued
20 the following Citations and ordered Respondent to pay the amounts set forth below. All of the
21 following citations are now final and are incorporated by reference as if fully set forth:

22 a. Citation IC 2010 394 issued on October 7, 2010, for violation of CCR section 1204(b)
23 'Fail to supervise'. Fine issued of \$501. Fine paid on February 28, 2011.

24 b. Citation IC 2011 26 issued on January 21, 2011, for violation of CCR section 1204(b)
25 'Fail to supervise'. Fine issued of \$501. Fine paid on June 1, 2011.

26 c. Citation IC 2011 32 issued on January 28, 2011, for violation of CCR section 1204(b)
27 'Fail to supervise'. Fine issued of \$501. Fine paid on August 7, 2012.

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1 d. Citation IC 2011 423 issued on October 13, 2011, for violation of CCR section
2 1204(b) 'Fail to supervise'. Fine issued of \$1,000. Fine paid on July 27, 2011.

3 PRAYER

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

6 1. Revoking or suspending Funeral Establishment License Number FD 1428, issued to
7 Solomons Mortuary, Willie Solomon, Sr., Manager, Willie C. Solomon, Jr., Lillie W. Dobson;

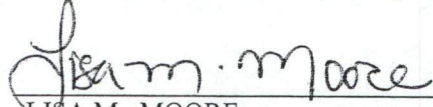
8 2. Ordering Solomons Mortuary. to pay the Cemetery and Funeral Bureau the reasonable
9 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
10 section 125.3;

11 3. Revoking or suspending Funeral Director License Number FDR 1428, issued to
12 Willie C. Solomon, Sr.;

13 4. Ordering Willie C. Solomon, Sr. to pay the Cemetery and Funeral Bureau the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3;

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

17 DATED: April 9, 2015



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

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