

1 BEFORE THE NEVADA STATE BOARD OF
2 FUNERAL AND CEMETERY SERVICES

3 IN THE MATTER OF)

4)
5 VALLEY FUNERAL HOME,)
Establishment Permit No. 71)

6 RESPONDENT.)
7 _____)

CASE NO. FB14-08

8 CONSENT DECREE

9 The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having
10 jurisdiction over permit holder VALLEY FUNERAL HOME ("VFH"), pursuant to NRS 642.470;
11 complaint against said permit holder having been received alleging violations of the Nevada
12 statutes and regulations controlling the practice of funeral establishments; and the parties
13 being mutually desirous of settling the controversy between them relative to the pending
14 complaint;

15 IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this
16 matter shall be settled and resolved upon the following terms:

17 VOLUNTARY WAIVER OF RIGHTS

18 VFH is aware of, understands, and has been advised of the effect of this Consent
19 Decree, which it has carefully read and fully acknowledged. VFH has had the opportunity to
20 consult with competent counsel of its choice.

21 VFH has freely and voluntarily entered into this Consent Decree, and is aware of its
22 rights to contest the charges pending against the establishment. These rights include
23 representation by an attorney at its own expense, the right to file an answer in response to a
24 formal complaint, the right to a public hearing on any charges or allegations formally filed, the
25 right to confront and cross-examine witnesses called to testify against it, the right to present
26 evidence on its own behalf, the right to testify on its own behalf, the right to receive written
27 findings of fact and conclusions of law supporting the decision on the merits of the complaint,
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1 and the right to obtain judicial review of the decision. All of these rights are being voluntarily
2 waived by VFH in exchange for the BOARD'S acceptance of this Consent Decree.

3 If the Consent Decree is not accepted by the BOARD, no member of the BOARD will
4 be disqualified from further hearing of this matter, by reason of his or her consideration of the
5 Consent Decree and VFH hereby waives any claim of bias or prejudice based upon said
6 consideration by any member of the BOARD in any subsequent disciplinary hearing
7 conducted by the BOARD.

8 JURISDICTION

9 VFH acknowledges that the BOARD has jurisdiction over it and the conduct alleged in
10 the Complaint. VFH acknowledges that the BOARD has the legal power and authority to take
11 disciplinary action, including, but not limited to, the revocation of its permit to operate a funeral
12 establishment in Nevada.

13 VFH acknowledges that the BOARD will retain jurisdiction over this matter until all
14 terms and conditions set forth in this Consent Decree have been met to the satisfaction of the
15 BOARD.

16 PUBLICATION OF CONSENT DECREE

17 VFH acknowledges that at the time this Consent Decree becomes effective, it also
18 becomes a public document and will be reported to the State of Nevada, Legislative Council
19 Bureau, Disciplinary Action Reporting System; and such other national databases as required
20 by law. It is also understood that any meeting during which the BOARD considers and
21 accepts or rejects this Consent Decree is open to the public and that the minutes of the
22 BOARD meeting are a public document, available for inspection by any person so requesting.

23 INDEMNIFICATION

24 VFH, for itself, its heirs, executors, administrators, successors and assigns, hereby
25 indemnifies and holds harmless the State of Nevada, the BOARD, the Nevada Attorney
26 General's office and each of its members, agents and employees in their individual and
27 representative capacities against any and all claims, suits, demands, actions, debts,
28 damages, costs, charges, and expenses, including court costs and attorney's fees against

1 any persons entities as well as all liability, losses, and damages of any nature whatsoever that
2 the persons and entities named in this paragraph shall have or may at any time sustain or
3 suffer by reason of this investigation, this disciplinary action, this settlement or its
4 administration.

5 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

6 VFH understands the nature of the allegations under consideration by the BOARD. It
7 acknowledges that the conduct alleged in the Complaint, if proven, constitutes violations of
8 the Nevada Board of Funeral and Cemetery Services Practice Act (NRS and NAC 642) and
9 NRS Chapter 440. It further recognizes that if this matter were to be taken to a disciplinary
10 hearing before the BOARD, there is a substantial likelihood that the following allegations
11 could be proven as true, and that as a result it would be subject to disciplinary action by the
12 BOARD. As such, VFH does not contest the following allegations:

13 1. VFH held a valid permit to operate a funeral establishment on the date of the
14 alleged violations and continues to hold a valid permit through the present day.

15 2. A complaint was received by the BOARD on or about July 3, 2014, alleging that
16 in June of 2014 VFH released a body to Southern Nevada Donor Services prior to obtaining a
17 burial/transit permit from Southern Nevada Health District.

18 3. NRS 642.470(2) states that unprofessional conduct includes violation of any
19 state law or municipal or county ordinance or regulation affecting the handling, custody, care
20 or transportation of dead human bodies.

21 4. NRS 440.560 states that no person in charge of any premises in which
22 interments are made shall inter or permit the interment or other disposition of any body unless
23 it is accompanied by a burial, removal, or transit permit.

24 5. That pursuant to Nevada Revised Statute (NRS) 642.470:

25 The following acts are grounds for which the Board may take disciplinary
26 action against a person who holds a funeral director's license, a permit to
27 operate a funeral establishment or a license to conduct direct cremations
or immediate burials, or may refuse to issue such a license or permit to
an applicant therefor:

- 28 1. Conviction of a crime involving moral turpitude.
2. Unprofessional conduct.

3. False or misleading advertising.
4. Conviction of a felony relating to the practice of funeral directors.
5. Conviction of a misdemeanor that is related directly to the business of a funeral establishment.

6. That pursuant to Nevada Revised Statute (NRS) 642.473:

If the Board determines that a person who holds a funeral director's license, a permit to operate a funeral establishment or a license to conduct direct cremations or immediate burials has committed any of the acts set forth in NRS 642.470, the Board may:

- (a) Refuse to renew the license or permit;
 - (b) Revoke the license or permit;
 - (c) Suspend the license or permit for a definite period or until further order of the Board;
 - (d) Impose a fine of not more than \$5,000 for each act that constitutes a ground for disciplinary action;
 - (e) Place the person on probation for a definite period subject to any reasonable conditions imposed by the Board;
 - (f) Administer a public reprimand; or
 - (g) Impose any combination of disciplinary actions set forth in paragraphs (a) to (f), inclusive.
2. The Board shall not administer a private reprimand.
 3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

7. VFH does not contest the allegations in the Complaint, and acknowledges that as a consequence he is subject to discipline pursuant to the above charges and statutory provisions.

STIPULATED ADJUDICATION

VFH stipulates that pursuant to the authority of NRS 642.473, the BOARD will administer a public reprimand. In addition, VFH agrees to comply with the following conditions:

1. Within thirty (30) days of the approval and execution of this Consent Decree, VFH shall pay seven hundred fifty dollars (\$750.00) in legal and investigative fees and one thousand dollars (\$1,000.00) in administrative fines.

a. No grace period is permitted. Full payment not actually received by the BOARD on or before the thirty days as indicated above, shall be construed as an event of default by VFH.

b. In the event of default, VFH agrees that its establishment permit shall be immediately suspended. The suspension of VFH's license shall continue until the unpaid

1 balance is paid in full and the suspension is subject to being reported to all appropriate
2 agencies.

3 c. VFH acknowledges that the BOARD has the legal power and authority to
4 take action against it, including instituting debt collection actions for unpaid monetary
5 assessments in this case.

6 2. Within forty five (45) days, submit to the BOARD established written policies and
7 procedures to prevent release of bodies prior to proper permits having been obtained.

8 3. VFH shall obey all federal, state and local laws, and orders of the BOARD,
9 which are not inconsistent with this Consent Decree, pertaining to the operation of a funeral
10 establishment in this State. From the date of execution of this Consent Decree until VFH
11 satisfies the payment requirements of subsection 1 of the Stipulated Adjudication section,
12 VFH shall report any and all violations to the BOARD in writing within seventy-two (72) hours.

13 4. VFH agrees that it will be financially responsible for all requirements of this
14 Consent Decree, including the cost of any reasonable financial assessments by the Board for
15 the Cost of monitoring its compliance or carrying out the provisions of this Consent Decree
16 upon a determination of non-compliance with the provisions of this Consent Decree.

17 **VIOLATION OF TERMS OF CONSENT DECREE**

18 VFH understands that the BOARD may, upon thirty (30) days' notice to VFH, convene
19 a hearing for the limited purpose of establishing that it violated the terms of this Consent
20 Decree. If such a hearing results in a finding of a violation of this Consent Decree, the
21 BOARD may impose any penalty upon VFH authorized by NRS 642.473 including, but not
22 limited to, revocation of its permit to operate a funeral establishment in the State of Nevada.

23 VFH agrees to waive its right to appeal the substantive legal basis of the original
24 disciplinary action, which is the basis for this Consent Decree. In the event an alleged
25 violation of the Consent Decree is taken to hearing and the facts which constitute the violation
26 are determined to be not proven, no disciplinary action shall be taken by the BOARD.

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ORDER

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2 By a majority vote on the 14th day of April, 2015, the State of Nevada
3 Board of Funeral and Cemetery Services approved and adopted the terms and conditions set
4 forth in the attached Consent Decree with VFH, Establishment Permit No. 71.

5 **IT IS HEREBY ORDERED AND MADE EFFECTIVE.**

6 **DATED this 14th day of April, 2015**

7
8 By: Wayne C. Fazzino
9 Wayne Fazzino, Chair
for the Board of Funeral and Cemetery Services