

**BEFORE THE NEVADA STATE BOARD OF
FUNERAL AND CEMETERY SERVICES**

1
2
3 IN THE MATTER OF)
4)
5 FRANK ZIMMERMAN,)
Funeral Director License No. 15)
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 licensee FRANK ZIMMERMAN ("ZIMMERMAN"), pursuant to NRS 642.470;
11 complaint against said licensee having been received alleging violations of the Nevada
12 statutes and regulations controlling the practice of funeral directors; and the parties being
13 mutually desirous of settling the controversy between them relative to the pending complaint;

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

16 **VOLUNTARY WAIVER OF RIGHTS**

17 ZIMMERMAN is aware of, understands, and has been advised of the effect of this
18 Consent Decree, which he has carefully read and fully acknowledged. ZIMMERMAN has had
19 the opportunity to consult with competent counsel of his choice.

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

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

6 JURISDICTION

7 ZIMMERMAN acknowledges that the BOARD has jurisdiction over him and the
8 conduct alleged in the Complaint. ZIMMERMAN acknowledges that the BOARD has the legal
9 power and authority to take disciplinary action, including, but not limited to, the revocation of
10 his license to practice as a funeral director in Nevada.

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

14 PUBLICATION OF CONSENT DECREE

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

21 INDEMNIFICATION

22 ZIMMERMAN, for himself, his heirs, executors, administrators, successors and
23 assigns, hereby indemnifies and holds harmless the State of Nevada, the BOARD, the
24 Nevada Attorney General's office and each of their members, agents and employees in their
25 individual and representative capacities against any and all claims, suits, demands, actions,
26 debts, damages, costs, charges, and expenses, including court costs and attorney's fees
27 against any persons entities as well as all liability, losses, and damages of any nature
28 whatsoever that the persons and entities named in this paragraph shall have or may at any

1 time sustain or suffer by reason of this investigation, this disciplinary action, this settlement or
2 its administration.

3 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

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

11 1. ZIMMERMAN held a valid Funeral Director license on the date of the alleged
12 violations and continues to hold a valid Funeral Director license through the present day.

13 2. A complaint was received by the BOARD on or about July 3, 2014, and alleged
14 that ZIMMERMAN, the approved managing Funeral Director at Valley Funeral Home, acted
15 unprofessionally by releasing a body to Southern Nevada Donor Services prior to obtaining a
16 burial/transit permit from Southern Nevada Health District.

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

20 4. NRS 440.450 states that the funeral director or person acting as the undertaker
21 is responsible for securing a burial or removal permit prior to any disposition of a body.

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

25 6. That pursuant to Nevada Revised Statute (NRS) 642.470:

26 The following acts are grounds for which the Board may take disciplinary
27 action against a person who holds a funeral director's license, a permit to
28 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:

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.

7. 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.

8. ZIMMERMAN 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

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

1. Within thirty (30) days of the approval and execution of this Consent Decree, ZIMMERMAN 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 ZIMMERMAN.

1 b. In the event of default, ZIMMERMAN agrees that his funeral director
2 license shall be immediately suspended. The suspension of ZIMMERMAN's license shall
3 continue until the unpaid balance is paid in full and the suspension is subject to being
4 reported to all appropriate agencies.

5 c. ZIMMERMAN acknowledges that the BOARD has the legal power and
6 authority to take action against him, including instituting debt collection actions for unpaid
7 monetary assessments in this case.

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

14 3. From the date of execution of this Consent Decree until ZIMMERMAN satisfies
15 the payment requirements of subsection 1 of this Stipulated Adjudication section,
16 ZIMMERMAN is required to notify the BOARD in writing within seventy-two (72) hours after
17 any change in employment as a funeral director, including self-employment, consulting or
18 volunteering. Any notification of termination or change of employment shall contain a full
19 explanation of the circumstances surrounding it.

20 4. ZIMMERMAN agrees that he will be financially responsible for all requirements
21 of this Consent Decree, including the cost of any reasonable financial assessments by the
22 Board for the Cost of monitoring his compliance or carrying out the provisions of this Consent
23 Decree upon a determination of non-compliance with the provisions of this Consent Decree.

VIOLATION OF TERMS OF CONSENT DECREE

24
25 ZIMMERMAN understands that the BOARD may, upon thirty (30) days' notice to
26 ZIMMERMAN, convene a hearing for the limited purpose of establishing that he violated the
27 terms of this Consent Decree. If such a hearing results in a finding of a violation of this
28 Consent Decree, the BOARD may impose any penalty upon ZIMMERMAN authorized by

1 NRS 642.473 including, but not limited to, revocation of his license to practice as a funeral
2 director in the State of Nevada.

3 ZIMMERMAN agrees to waive his right to appeal the substantive legal basis of the
4 original disciplinary action, which is the basis for this Consent Decree. In the event an alleged
5 violation of the Consent Decree is taken to hearing and the facts which constitute the violation
6 are determined to be not proven, no disciplinary action shall be taken by the BOARD.

7 **ACCEPTANCE BY THE BOARD**

8 This Consent Decree will be presented and accepted by the BOARD with a
9 recommendation for approval from the Attorney General's Office at its next meeting.

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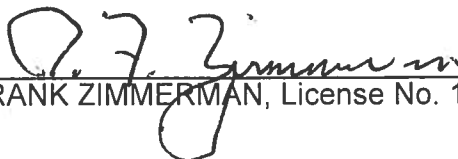
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COMPLETE CONSENT DECREE

This Consent Decree embodies the entire agreement between the BOARD and RICHARD ZIMMERMAN. It may not be altered, amended, or modified without the express written consent of the parties.

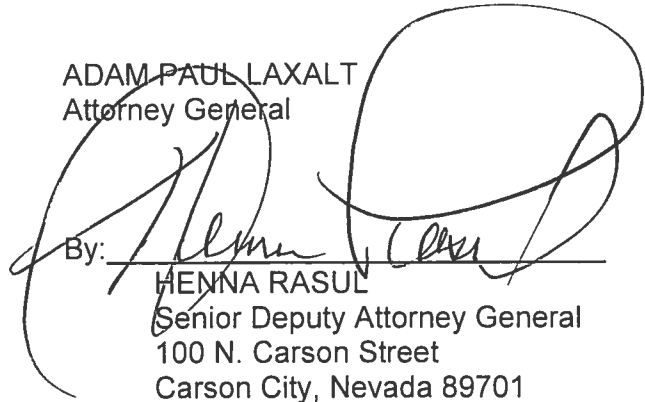
DATED this 13 day of Jan, 2015

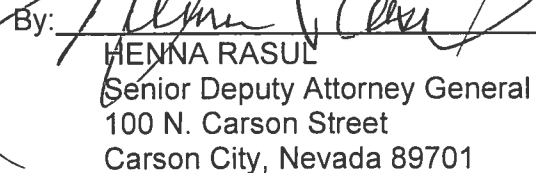
By: 
FRANK ZIMMERMAN, License No. 15

The foregoing Consent Decree between FRANK ZIMMERMAN and the STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No. FB14-08 is approved as to form and content.

DATED this 20 day of JANUARY, 2015

ADAM PAUL LAXALT
Attorney General



By: 
HENNA RASUL
Senior Deputy Attorney General
100 N. Carson Street
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(775) 684-1234
Counsel to the State of Nevada
Board of Funeral and Cemetery
Services

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ORDER

By a majority vote on the 14th day of April, 2015, the State of Nevada Board of Funeral and Cemetery Services approved and adopted the terms and conditions set forth in the attached Consent Decree with Frank Zimmerman, License No. 15.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 14th day of April, 2015

By: Wayne G. Fazzino
Wayne Fazzino, Chair
for the Board of Funeral and Cemetery Services