

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

IN THE MATTER OF)
)
KING DAVID MEMORIAL)
CHAPEL,)
Establishment Permit No. 69)
)
RESPONDENT.)

CASE NO. FB14-12

CONSENT DECREE

The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having jurisdiction over permit holder KING DAVID MEMORIAL CHAPEL ("KDMC"), pursuant to NRS 642.470; complaint against said permit holder having been received alleging violations of the Nevada statutes and regulations controlling the practice of funeral establishments; and the parties being mutually desirous of settling the controversy between them relative to the pending complaint;

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

VOLUNTARY WAIVER OF RIGHTS

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

KDMC has freely and voluntarily entered into this Consent Decree, and is aware of its rights to contest the charges pending against the establishment. These rights include representation by an attorney at its own expense, the right to file an answer in response to a formal complaint, the right to a public hearing on any charges or allegations formally filed, the right to confront and cross-examine witnesses called to testify against it, the right to present evidence on its own behalf, the right to testify on its own behalf, the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the complaint,

1 and the right to obtain judicial review of the decision. All of these rights are being voluntarily
2 waived by KDMC 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 KDMC 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 KDMC acknowledges that the BOARD has jurisdiction over it and the conduct alleged
10 in the Complaint. KDMC acknowledges that the BOARD has the legal power and authority to
11 take disciplinary action, including, but not limited to, the revocation of its permit to operate a
12 funeral establishment in Nevada.

13 KDMC 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 KDMC 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 KDMC, 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 KDMC understands the nature of the allegations under consideration by the BOARD.
7 It 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, KDMC does not contest the following allegations:

13 1. KDMC 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 August 25, 2014, alleging
16 that on August 18, 2014, KDMC proceeded with a burial without having obtained the required
17 burial permit.

18 3. Additionally details of an incident report suggest that misrepresentation was
19 made to Southern Nevada Health District regarding the interment.

20 4. NRS 642.480(1) states that unprofessional conduct includes misrepresentation
21 or fraud in the operation of a funeral establishment.

22 5. NRS 642.480(2) states that unprofessional conduct includes violation of any
23 state law or municipal or county ordinance or regulation affecting the handling, custody, care
24 or transportation of dead bodies.

25 6. NRS 440.560 states that no person in charge of any premises in which
26 interments are made shall inter or permit the interment or other disposition of anybody unless
27 it is accompanied by a burial, removal, or transit permit.

28 7. That pursuant to Nevada Revised Statute (NRS) 642.470:

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

- 1 1. Conviction of a crime involving moral turpitude.
- 2 2. Unprofessional conduct.
- 3 3. False or misleading advertising.
- 4 4. Conviction of a felony relating to the practice of funeral directors.
- 5 5. Conviction of a misdemeanor that is related directly to the business
6 of a funeral establishment.

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

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

- 11 (a) Refuse to renew the license or permit;
- 12 (b) Revoke the license or permit;
- 13 (c) Suspend the license or permit for a definite period or until
14 further order of the Board;
- 15 (d) Impose a fine of not more than \$5,000 for each act that
16 constitutes a ground for disciplinary action;
- 17 (e) Place the person on probation for a definite period subject
18 to any reasonable conditions imposed by the Board;
- 19 (f) Administer a public reprimand; or
- 20 (g) Impose any combination of disciplinary actions set forth in
21 paragraphs (a) to (f), inclusive.

22 2. The Board shall not administer a private reprimand.

23 3. An order that imposes discipline and the findings of fact and
24 conclusions of law supporting that order are public records.

25 9. KDMC does not contest the allegations in the Complaint, and acknowledges
26 that as a consequence he is subject to discipline pursuant to the above charges and statutory
27 provisions.

28 STIPULATED ADJUDICATION

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

1. Within thirty (30) days of the approval and execution of this Consent Decree,
KDMC shall pay five hundred fifty dollars (\$550.00) in legal and investigative fees and three
thousand dollars (\$3,000.00) in administrative fines.

///

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

4 b. In the event of default, KDMC agrees that its establishment permit shall
5 be immediately suspended. The suspension of KDMC's license shall continue until the
6 unpaid balance is paid in full and the suspension is subject to being reported to all
7 appropriate agencies.

8 c. KDMC acknowledges that the BOARD has the legal power and authority
9 to take action against it, including instituting debt collection actions for unpaid monetary
10 assessments in this case.

11 2. Within forty five (45) days, submit to the BOARD established written policies and
12 procedures to prevent future burials prior to obtaining proper permits.

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

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

23 **VIOLATION OF TERMS OF CONSENT DECREE**

24 KDMC understands that the BOARD may, upon thirty (30) days' notice to KDMC,
25 convene a hearing for the limited purpose of establishing that it violated the terms of this
26 Consent Decree. If such a hearing results in a finding of a violation of this Consent Decree,
27 the BOARD may impose any penalty upon KDMC authorized by NRS 642.473 including, but
28

1 not limited to, revocation of its permit to operate a funeral establishment in the State of
2 Nevada.

3 KDMC agrees to waive its right to appeal the substantive legal basis of the original
4 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.

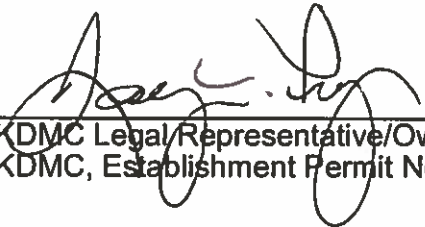
7 **ACCEPTANCE BY THE BOARD**

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.

10 **COMPLETE CONSENT DECREE**

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

14 DATED this 10 day of JANUARY, 2015

15
16 By: 
17 KDMC Legal Representative/Owner
18 KDMC, Establishment Permit No. 69

19 DATED this 12th day of January, 2015

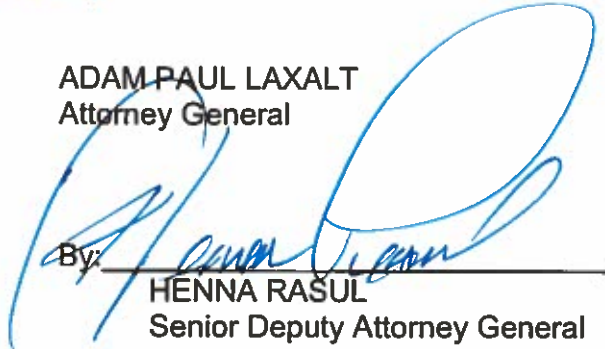
20
21 By: 
22 Robert F. List, Esq.
23 Senior Partner
24 Kolesar & Leatham
25 400 South Rampart Blvd., Suite 400
26 Las Vegas, Nevada 89145
27 (702) 362-7800
28 Attorney for Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The foregoing Consent Decree between KDMC and the STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No. FB14-12 is approved as to form and content.

DATED this 15 day of JANUARY, 2015

ADAM PAUL LAXALT
Attorney General



By: _____
HENNA RASUL
Senior Deputy Attorney General
100 N. Carson Street
Carson City, Nevada 89701
(775) 684-1234
Counsel to the State of Nevada
Board of Funeral and Cemetery
Services

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

By a majority vote on the 20TH day of January, 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 KDMC, Establishment Permit No. 71.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 20TH day of January, 2015

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