

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

3 IN THE MATTER OF)
4 DAVID WALTERS,)
5 Funeral Director License No.)
6 FD70)
7 RESPONDENT,)

CASE NO. FB15-02

8 CONSENT DECREE

9 The State of Nevada BOARD of Funeral and Cemetery Services ("BOARD") having
10 jurisdiction over licensee DAVID WALTERS ("WALTERS"), pursuant to NRS 642.470;
11 complaint against said licensee alleging violations of the Nevada statutes and regulations
12 controlling the practice of funeral directors; and the parties being mutually desirous of settling
13 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 WALTERS is aware of, understands, and has been advised of the effect of this
18 Consent Decree, which he has carefully read and fully acknowledged. WALTERS has had
19 the opportunity to consult with competent counsel of his choice.

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

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

14 PUBLICATION OF CONSENT DECREE

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

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

3 STIPULATED FACTS AND CONCLUSIONS OF LAW

4 WALTERS 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 451. 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, WALTERS does not contest the following allegations:

11 1. WALTERS held a valid Funeral Director license on the date of the alleged
12 violations and continues to hold a valid Funeral Director license from June 13, 1995, through
13 the present day.

14 2. WALTERS was the approved managing Funeral Director of Sunrise Cremation
15 and Burial ("Sunrise") during all times relevant to the alleged violations regarding this
16 complaint.

17 3. The BOARD conducted an inspection of "Sunrise" on January 21, 2015.

18 4. The inspector found that the establishment only had the tops of the cremation
19 containers at the establishment location.

20 5. Sunrise staff indicated that bodies are placed onto the box tops and rolled into
21 the retorts.

22 6. It is assumed that consumers paid for a cremation which included a full
23 container and alleged that the establishment had been utilizing only half of the container.

24 7. NRS 642.480(1) states that unprofessional conduct includes misrepresentation
25 or fraud in the operation of a funeral establishment.

26 8. NRS 642.480(11) states that unprofessional conduct includes violation of any
27 provision of this chapter, any regulation adopted pursuant thereto or any order of the Board.

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1 9. NRS 642.480(12) states that unprofessional conduct includes violation of any
2 state law or municipal or county ordinance or regulation affecting the handling, custody, care
3 or transportation of dead human bodies.

4 10. NRS 642.480(15) states that unprofessional conduct includes taking undue
5 advantage of the patrons of a funeral establishment or being guilty of fraud or
6 misrepresentation in the sale of merchandise to those patrons.

7 11. NRS 642.345(3) states that a funeral director is responsible for the proper
8 management of each funeral establishment of which the funeral director is the manager.

9 12. NRS 451.670(2)(b) states that the container used for cremation must cover the
10 human remains completely when closed.

11 13. NRS 451.615 defines a container as a vessel, whether or not a casket, in which
12 remains are placed for cremation.

13 14. That pursuant to Nevada Revised Statute (NRS) 642.470:

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

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

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

23 1. If the Board determines that a person who holds a funeral
24 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:

- 25 (a) Refuse to renew the license or permit;
- 26 (b) Revoke the license or permit;
- 27 (c) Suspend the license or permit for a definite period or until
further order of the Board;
- 28 (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

1 (g) Impose any combination of disciplinary actions set forth in
paragraphs (a) to (f), inclusive.

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

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

4 16. WALTERS does not contest the allegations and acknowledges that as a
5 consequence he is subject to discipline pursuant to the above charges and statutory
6 provisions.

7 STIPULATED ADJUDICATION

8 WALTERS stipulates that pursuant to the authority of NRS 642.473, his funeral license
9 number FD70 shall be placed on probation for one (1) year. During the term of probation,
10 WALTERS agrees to comply with the following conditions:

11 1. Within thirty (30) days of the approval and execution of this Consent Decree,
12 WALTERS shall pay five hundred ninety dollars (\$590.00) in legal and investigative fees and
13 three thousand dollars (\$3,000.00) in administrative fines.

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

17 b. In the event of default, WALTERS agrees that his funeral director license
18 shall be immediately suspended. The suspension of WALTERS' license shall continue until
19 the unpaid balance is paid in full and the suspension is subject to being reported to all
20 appropriate agencies.

21 c. WALTERS acknowledges that the BOARD has the legal power and
22 authority to take action against him, including instituting debt collection actions for unpaid
23 monetary assessments in this case.

24 2. WALTERS must attend at least a six (6) hours of courses pre-approved by the
25 BOARD Executive Director on the issue of ethics and six (6) hours of course pre-approved by
26 the BOARD Executive Director on Federal Trade Commission (FTC) Funeral Rule, as both
27 courses relate to the funeral industry.

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

7 4. From the date of execution of this Consent Decree until WALTERS satisfies all
8 of the terms of this Stipulated Adjudication section, WALTERS is required to notify the
9 BOARD in writing within seventy-two (72) hours after any change in employment as a funeral
10 director, including self-employment, consulting or volunteering. Any notification of termination
11 or change of employment shall contain a full explanation of the circumstances surrounding it.

12 5. WALTERS agrees that he will be financially responsible for all requirements of
13 this Consent Decree, including the cost of any reasonable financial assessments by the
14 BOARD for the Cost of monitoring his compliance or carrying out the provisions of this
15 Consent Decree upon a determination of non-compliance with the provisions of this Consent
16 Decree.

17 6. After a minimum of one (1) year, WALTERS may apply to the BOARD for
18 termination of his probation and full reinstatement of his funeral license number FD70.
19 WALTERS understands that prior to terminating his probation and full reinstatement of his
20 license he must prove to the BOARD's satisfaction that he has complied with all the terms
21 and conditions of his Consent Decree. WALTERS shall submit a written request to the
22 BOARD for termination of his probation. Upon receipt of this request, the BOARD may
23 request additional information from WALTERS to determine his compliance with the Consent
24 Decree. Upon establishing WALTERS has met all of the requirements of the Consent
25 Decree, he shall meet with the Chair of the BOARD or his/her designee, the Executive
26 Director and BOARD counsel for evaluation of his compliance with the Consent Decree and
27 for their recommendation of termination of probation, full reinstatement, or additional
28 disciplinary action at a separate hearing before the BOARD.

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COMPLETE CONSENT DECREE

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

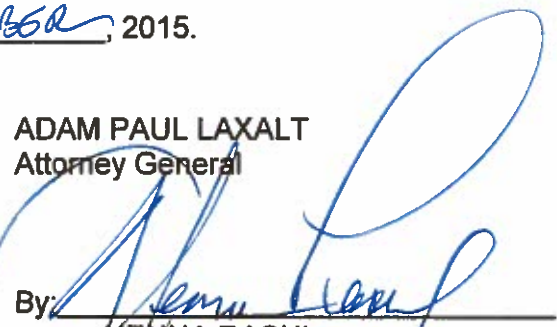
DATED this 23rd day of November, 2015.

By: 
DAVID WALTERS, License No. FD70

The foregoing Consent Decree between DAVID WALTERS and the STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No. FB15-02 is approved as to form and content.

DATED this 2 day of December, 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

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ORDER

By a majority vote on the 13TH day of October, 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 DAVID WALTERS, License No. FD70.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 15TH day of December, 2015.

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