BEFORE THE NEVADA STATE BOARD OF FUNERAL AND CEMETERY SERVICES

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IN THE MATTER OF

VALLEY CREMATION AND BURIAL Crematory License #CRE71

RESPONDENT.

CASE NO. FB15-12

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CONSENT DECREE

The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having jurisdiction over permit holder VALLEY CREMATION and BURIAL ("VCB"), 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 operating crematories; 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

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

VCB has freely and voluntarily entered into this Consent Decree, and is aware of its rights to contest the charges pending against the crematory. 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, and the right to obtain judicial review of the decision. All of these rights are being voluntarily

waived by VCB in exchange for the BOARD'S acceptance of this Consent Decree.

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

JURISDICTION

VCB acknowledges that the BOARD has jurisdiction over it and the conduct alleged in the Complaint. VCB acknowledges that the BOARD has the legal power and authority to take disciplinary action, including, but not limited to, the revocation of its permit to operate a crematory in Nevada.

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

PUBLICATION OF CONSENT DECREE

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

INDEMNIFICATION

VCB, for itself, its heirs, executors, administrators, successors and assigns, hereby indemnifies and holds harmless the State of Nevada, the BOARD, the Nevada Attorney General's office and each of its members, agents and employees in their individual and representative capacities against any and all claims, suits, demands, actions, debts, damages, costs, charges, and expenses, including court costs and attorney's fees against any persons entities as well as all liability, losses, and damages of any nature whatsoever that the

persons and entities named in this paragraph shall have or may at any time sustain or suffer by reason of this investigation, this disciplinary action, this settlement or its administration.

STIPULATED FACTS AND CONCLUSIONS OF LAW

VCB understands the nature of the allegations under consideration by the BOARD. It acknowledges that the conduct alleged in the Complaint, if proven, constitutes violations of the Nevada Board of Funeral and Cemetery Services Practice Act (NRS and NAC 642), NRS Chapter 440, and NRS Chapter 451. It further recognizes that if this matter were to be taken to a disciplinary hearing before the BOARD, there is a substantial likelihood that the following allegations could be proven as true, and that as a result it would be subject to disciplinary action by the BOARD. As such, VCB does not contest the following allegations:

- 1. VCB held a valid license to operate a crematory on the date of the alleged violations and continues to hold a valid license through the present day.
- A complaint was prepared by the BOARD on December 1, 2015, as a result of being contacted by Southern Nevada Health District regarding allegations pertaining to Valley Cremation and Burial (VCB).
- a. It is alleged that Southern Nevada Health District employees and Henderson Code Enforcement observed employees of VCB thawing and hosing off a severed torso outside while bits of tissue and blood were washed into the gutters that flowed in front of several businesses.
- 3. On December 2, 2015, the funeral board inspector personally visited VCB and observed the following:
- a. There was an unplugged freezer at the location containing various body parts which were covered with mold and dated back to 2007.
- b. A severed torso in the main refrigeration unit was not labeled with any identification and was being stored on the floor of the refrigeration unit.
 - c. There were several coolers in the back outside area of the crematory.
- i. An employee with the initials G.D. stated that the coolers were used to ship body parts and when they are returned with body parts, the coolers contained

bodily fluids which are washed with a hose in that outside area.

- d. Cremated remains without any identifying information attached to the container were found at the location.
- i. On December 7, 2015, the inspector noticed the same container with the same cremated remains which then had an identifying document attached.
- ii. Employee G.D. claimed that the tag was on the container the entire time.
- iii. The name and file number on the container was not contained in the cremation log provided by the crematory.
- iv. On December 7, 2015, the BOARD inspector reviewed a random sample of files found as part of an investigation of VCB which corresponded to the remains present at the location.
- v. The sampling revealed files which did not contain cremation authorization forms or an anatomical donation authorization.
- vi. Several files contained a statement of funeral goods and services for the \$10 regulatory fee and death certificates, while other files did not contain any statement of funeral goods and services.
 - vii. Many of the files had unsigned or incomplete paperwork.
- viii. None of the files contained receipts for the delivery of the cremated remains.
- 4. Interviews conducted on December 8, 2015, with individuals employed by neighboring businesses revealed that there were complaints regarding bloody boxes placed in common trash dumpsters which would attract flies.
- a. One neighboring tenant claimed that he observed uncovered bodies on a gurney when the rollup door facing the business was open.
- b. Employee G.D. stated that the bodies are dismembered at Valley Funeral Home, not the crematory, but a bloody "sawzall" was found at the location.

- 5. NRS 642.480(11) states that unprofessional conduct includes violation of any provision of this chapter, any regulation adopted pursuant thereto or any order of the BOARD.
- 6. NRS 642.480(12) states that unprofessional conduct includes violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.
- 7. NRS 642.480(18) states that unprofessional conduct includes unethical practices contrary to the public interest as determined by the BOARD.
- 8. NRS 451.660(1) states that the operator of a crematory shall not cremate human remains without first receiving a written authorization on a form provided by the operator signed by the agent, identifying the deceased, stating whether or not death occurred from a communicable disease, stating the name and address of the agent and the agent's relation to the deceased person, representation that the agent is aware of no objections to cremation, and stating the name of the person authorized to claim the cremated remains.
- 9. NRS 451.665(1) states that operator of the crematory shall keep a record of each authorization received, the name of each person whose remains are received, the date and time of receipt, a description of container in which received, the date of the cremation, and the final disposition of the cremated remains.
- 10. NRS 451.665(2) states that the operator of a crematory shall place appropriate identification upon the exterior of the container in which remains are received.
- 11. NRS 451.675(1)(a) states that the operator of a crematory shall place human remains in a holding facility within the crematory which preserves the dignity of the remains.
- 12. NRS 451.675(1)(b) states that the operator of a crematory shall protect the health and safety of the employee of the operator.
- 13. NRS 451.6803(b) states that upon completion of cremation, the operator shall place the bone fragments in an urn with proper identification.
- 14. NRS 451.690(1) states that a person receiving the remains and a representative of the crematory shall sign a receipt showing the name of the person whose remains are

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received and the date, time, and place of the receipt, and that the operator shall retain the receipt.

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

The following acts are grounds for which the Board may take disciplinary action against a person who holds a license, permit or certificate issued by the Board or may refuse to issue such a license, permit, or certificate 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.
- 16. That pursuant to Nevada Revised Statute (NRS) 642.473:

If the Board determines that a person who holds a license, permit or certificate 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.
- 17. VCB does not contest the allegations in the Complaint, and acknowledges that as a consequence it is subject to discipline pursuant to the above charges and statutory provisions.

STIPULATED ADJUDICATION

VCB stipulates that pursuant to the authority of NRS 642.473, the BOARD will impose a revocation of VCB's crematory license by the voluntary surrender by VCB of its license to the BOARD. Upon the surrender of the cremation license, VCB agrees to comply with the following conditions:

- 1. The revocation shall commence upon execution of this Consent Decree by the presiding member of the BOARD. VCB or any officers of the corporation may not apply for a crematory license in this State during the period this consent decree is in effect. After the revocation has been in effect for a five-year time period, VCB may apply for re-instatement of its crematory license. If VCB re-applies for a crematory license in this State, its representative agrees to meet with the President of the BOARD or his/her designee, the Executive Director and BOARD counsel and prove compliance with the Consent Decree and fitness for licensure.
- 2. After its license is reinstated, VCB stipulates that pursuant to the authority of NRS 642.473, the BOARD may impose a one (1) year period of probation upon its license to operate a crematory in the State of Nevada subject to the following terms and conditions:
- a. VCB shall obey all federal, state and local laws, insurance company policies or contracts and orders of the BOARD, which are not inconsistent with this Consent Decree, pertaining to the operation of a crematory in this State. Any and all violations shall be reported by VCB to the BOARD in writing within seventy-two (72) hours.
- b. VCB shall receive credit toward service of its probation period only while operating as a Licensed Crematory in the State of Nevada.
- VCB agrees that it will be financially responsible for all requirements of this
 Consent Decree and any reasonable financial assessments by the Board for the Cost of monitoring its compliance or carrying out the provisions of this Consent Decree.

VIOLATION OF TERMS OF CONSENT DECREE

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

VCB agrees to waive its right to appeal the substantive legal basis of the original disciplinary action, which is the basis for this Consent Decree. In the event an alleged violation of the Consent Decree is taken to hearing and the facts which constitute the violation

are determined to be not proven, no disciplinary action shall be taken by the BOARD. 1 ACCEPTANCE BY THE BOARD 2 This Consent Decree will be presented and accepted by the BOARD with a 3 recommendation for approval from the Attorney General's Office at its next meeting. 4 COMPLETE CONSENT DECREE 5 This Consent Decree embodies the entire agreement between the BOARD and VCB. 6 7 It may not be altered amended or modified without the express written consent of the parties. 8 9 10 Bv: Geraldine Kirk-Hughes, Esq Maxme Lee, Co-Owner 1.1 KIRK-HUGHES & ASSOCIATES VCB, Crematory License No. CRE71 2551 South Fort Apache Rd, Ste #103 12 Las Vegas, NV 89117 (702) 233-8683 13 14 The foregoing Consent Decree between VCB and the STATE OF NEVADA FUNERAL 15 AND CEMETERY SERVICES BOARD in Case No. FB15-12 is approved as to form and 16 content. 17 18 ADAM PAUL LAXALT 19 Attorney General 20 21 NA RASUL 22 Senior Deputy Attorney General 100 N. Carson Street 23 Carson City, Nevada 89701 (775) 684-1234 24 Counsel to the State of Nevada Board of Funeral and Cemetery 25 Services 26 27

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ORDER By a majority vote on the 15th day of March, 2016, 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 VCB, Crematory License No. CRE71.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 15TH day of Manch, 2016

for the Board of Funeral and Cemetery Services



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