

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

3 IN THE MATTER OF)

4 FRANK ZIMMERMAN,)
5 Funeral Director License No.FD15)

6 RESPONDENT.)

CASE NO. FB15-13

7 _____)
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 a 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, NRS 451 and NRS Chapter 440). He further recognizes that if this matter were to
8 be taken to a disciplinary hearing before the BOARD, there is a substantial likelihood that the
9 following allegations could be proven as true, and that as a result he would be subject to
10 disciplinary action by the BOARD. As such, ZIMMERMAN does not contest the following
11 allegations:

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

14 2. A complaint was prepared by the BOARD on December 1, 2015, as a result of
15 being contact by Southern Nevada Health District regarding allegations pertaining to Valley
16 Cremation and Burial (VCB).

17 3. As part of that investigation, the BOARD conducted a site visit of Valley Funeral
18 Home (VFH), of which ZIMMERMAN was the approved managing funeral director, on
19 December 7, 2015, and January 26, 2016.

20 4. On December 7, 2015, the BOARD inspector reviewed a random sample of files
21 found at the VFH location as part of an investigation of VCB which were located at the funeral
22 establishment.

23 a. The sampling revealed files which did not contain either cremation
24 authorizations or authorizations for anatomical donation.

25 b. Several files did not contain any statement of funeral goods and services.

26 c. Many of the files had unsigned or incomplete paperwork.

27 5. Based on an interview with ZIMMERMAN on January 26, 2016, and review of
28 files, unlicensed individuals employed by VFH were meeting with families to order the

1 disposition of human remains and planning funeral services for decedents.

2 a. During this interview, ZIMMERMAN admitted that he was rarely physically
3 present at the funeral establishment and had very little knowledge of what occurred at VFH.

4 b. Additionally, ZIMMERMAN admitted that he is not actually signing the
5 death certificates and has shared his login and password with other unlicensed employees
6 who are signing the death certificates using his credentials.

7 6. NRS 642.345 states that the funeral director is responsible for the proper
8 management of each funeral establishment of which the funeral director is the manager.

9 7. NRS 642.470(11) states that unprofessional conduct includes violation of any
10 provision of this chapter, any regulation adopted pursuant thereto or any order of the BOARD.

11 8. NRS 642.470(12) states that unprofessional conduct includes violation of any
12 state law or municipal or county ordinance or regulation affecting the handling, custody, care
13 or transportation of dead human bodies.

14 9. NRS 642.470(18) states that unprofessional conduct includes unethical
15 practices contrary to the public interest as determined by the BOARD.

16 10. NRS 451.665(1) states that the funeral establishment shall keep a record of
17 each authorization received, the name of each person whose remains are received, the date
18 and time of receipt, a description of container in which received, the date of the cremation,
19 and the final disposition of the cremated remains.

20 11. NRS 440.480 states that the funeral director or person acting as the undertaker
21 shall state the facts required relative to the date and place of burial over his or her signature.

22 12. Section 6 of S.B. 286 states that a person shall not engage in the business of
23 funeral arranger unless the person is licensed as a funeral arranger by the BOARD.

24 13. 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 or a permit
27 to operate a funeral establishment may refuse to issue such a license or
28 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.

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

If the Board determines that a person who holds a funeral director's license or a permit to operate a funeral establishment 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.

15. 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 impose a revocation of ZIMMERMAN's FD license by the voluntary surrender by ZIMMERMAN of his license to the BOARD. Upon the surrender of the FD license, ZIMMERMAN 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. ZIMMERMAN may not apply for a funeral director license in this State during the period this consent decree is in effect. After the revocation has been in effect for a three-year time period, ZIMMERMAN may apply for re-instatement of his FD license. If ZIMMERMAN re-applies for a FD license in this State, he agrees to meet with the Chairman of the BOARD or his/her designee, the Executive Director and BOARD counsel and prove compliance with the Consent Decree and fitness for licensure.

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
6 FRANK ZIMMERMAN. It may not be altered, amended, or modified without the express
7 written consent of the parties.

8 DATED this 22 day of Feb., 2016

9
10 By: Frank Zimmerman
11 FRANK ZIMMERMAN, License No. FD15

12 The foregoing Consent Decree between FRANK ZIMMERMAN and the STATE OF
13 NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No. FB15-13 is approved
14 as to form and content.

15 DATED this 29 day of FEBRUARY, 2016

16
17 CATHERINE CORTEZ MASTO
18 Attorney General

19
20 By: Henna Rasul
21 HENNA RASUL
22 Senior Deputy Attorney General
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26 Counsel to the State of Nevada
27 Board of Funeral and Cemetery
28 Services

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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 FRANK ZIMMERMAN, License No. FD15.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 15TH day of MARCH, 2016

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