

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

3 IN THE MATTER OF)
4 BUNKER'S EDEN VALE)
5 MORTUARY)
Establishment Permit No. EST10)
6 RESPONDENT.)
7 _____)

CASE NO. FB16-05

8 **CONSENT DECREE**

9 The State of Nevada BOARD of Funeral and Cemetery Services ("BOARD") having
10 jurisdiction over permittee BUNKER'S EDEN VALE MORTUARY ("BEVM"), pursuant to
11 NRS 642.5175; a complaint against said permit holder having been received alleging
12 violations of the Nevada statutes and regulations controlling the practice of funeral
13 establishments; and the parties being mutually desirous of settling the controversy
14 between them relative to the pending complaint;

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

17 **VOLUNTARY WAIVER OF RIGHTS**

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

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

1 All of these rights are being voluntarily waived by BEVM in exchange for the BOARD'S
2 acceptance of this Consent Decree.

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

8 JURISDICTION

9 BEVM acknowledges that the BOARD has jurisdiction over it and the conduct
10 alleged in the Complaint. BEVM acknowledges that the BOARD has the legal power and
11 authority to take disciplinary action, including, but not limited to, the revocation of its
12 permit to operate a funeral establishment in Nevada.

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

16 PUBLICATION OF CONSENT DECREE

17 BEVM 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
19 Council Bureau, Disciplinary Action Reporting System; and such other national
20 databases as required by law. It is also understood that any meeting during which the
21 BOARD considers and accepts or rejects this Consent Decree is open to the public and
22 that the minutes of the BOARD meeting are a public document, available for inspection
23 by any person so requesting.

24 INDEMNIFICATION

25 BEVM, for itself, its heirs, executors, administrators, successors and assigns,
26 hereby indemnifies and holds harmless the State of Nevada, the BOARD, the Nevada
27 Attorney General's office and each of their members, agents and employees in their
28 individual and representative capacities against any and all claims, suits, demands,

1 actions, debts, damages, costs, charges, and expenses, including court costs and attorney's
2 fees against any persons, entities, as well as all liability, losses, and damages of any
3 nature whatsoever that the persons and entities named in this paragraph shall have or
4 may at any time sustain or suffer by reason of this investigation, this disciplinary action,
5 this settlement or its administration.

6 STIPULATED FACTS AND CONCLUSIONS OF LAW

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

15 1. BEVM held a valid permit to operate a funeral establishment on the date of
16 the alleged violations and continues to hold a valid permit through the present day.

17 2. The BOARD received a written complaint on or about March 16, 2016
18 alleging that decedents were not being cremated or buried within a reasonable time after
19 death, specifically, cases receiving payment from Clark County Social Services.

20 3. The investigation revealed a decedent in which the funeral home conducted
21 no follow-up or inquiries for a period of 11 months after taking custody of the remains.

22 4. NRS 642.5174(12) states that unprofessional conduct includes violation of
23 any state law or municipal or county ordinance or regulation affecting the handling,
24 custody, care or transportation of dead human bodies, including, without limitation,
25 chapters 440, 451, and 452 of NRS.

26 5. NRS 451.020(1) states that every dead body within this state shall be
27 decently buried or cremated within a reasonable time after death.

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6. That pursuant to Nevada Revised Statute (NRS) 642.5175:

The following acts are grounds for which the Board may take disciplinary action against any person who holds a license, permit or certificate issued by the Board:

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) 642.5176:

1. If the Board determines that a person who holds a license, permit or certificate issued by the Board has committed any of the acts set forth in NRS 642.5175, 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. BEVM does not contest the allegations and acknowledges that as a consequence it is subject to discipline pursuant to the above charges and statutory provisions.

9. BEVM enters this agreement to resolve this dispute, but does so without admitting to liability or fault to the BOARD or any other persons regarding any allegations listed in the Consent Decree. The parties agree that this consent decree is inadmissible as evidence in a court of law to prove liability or fault.

1 funeral establishment in this State. From the date of execution of this Consent Decree
2 until BEVM satisfies the payment terms of the Stipulated Adjudication Section 1, BEVM
3 shall report any and all violations to the BOARD in writing within seventy-two (72)
4 hours.

5 6. BEVM agrees that it will be financially responsible for all requirements of
6 this Consent Decree, including the cost of any reasonable financial assessments by the
7 BOARD for the cost of monitoring its compliance or carrying out the provisions of this
8 Consent Decree upon a determination of non-compliance with the provisions of this
9 Consent Decree. The BOARD will provide BEVM with an itemized accounting of costs for
10 which it believes BEVM will be financially responsible. BEVM retains the right to
11 challenge the reasonableness of the itemized costs.

12 7. BEVM will be placed on probation for six (6) months from the date this
13 Consent Decree becomes effective. Sixty (60) days before the end of BEVM's probation,
14 BEVM shall submit a written report to the BOARD outlining its compliance with the
15 Consent Decree. After receiving BEVM's report, the Chair of the BOARD or his/her
16 designee, the Executive Director and the BOARD counsel may request to meet with
17 BEVM and/or request additional information. Unless the Board initiates any additional
18 investigation or orders an additional probationary period, BEVM's probation will
19 automatically be terminated after six (6) months from the effective date of the Consent
20 Decree and BEVM fully reinstated.

21 VIOLATION OF TERMS OF CONSENT DECREE

22 BEVM understands that the BOARD may, upon thirty (30) days' notice to BEVM,
23 convene a hearing for the limited purpose of establishing that it violated the terms of this
24 Consent Decree. If such a hearing results in a finding of a violation of this Consent
25 Decree, the BOARD may impose any penalty upon BEVM authorized by NRS 642.5176
26 including, but not limited to, revocation of its permit to operate a funeral establishment in
27 the State of Nevada.

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1 BEVM agrees to waive its right to appeal the substantive legal basis of the original
2 disciplinary action, which is the basis for this Consent Decree. BEVM does not waive its
3 right to appeal alleged violations regarding subsequent monitoring or hearing to enforce
4 the Consent Decree. In the event an alleged violation of the Consent Decree is taken to
5 hearing and the facts which constitute the violation are determined to be not proven, no
6 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.

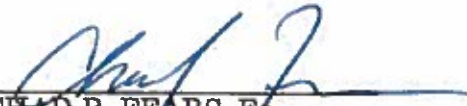
10 **COMPLETE CONSENT DECREE**

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

14 DATED this 5th day of December, 2016. DATED this 16th day of December, 2016.

15
16 By: 
17 BUNKER'S EDEN VALE MORTUARY
18 Legal Representative/Owner
19 Permit No. EST10

Viki King
Vice President &
Secretary

By: 
CHAD R. FEARS, Esq.
Snell & Wilmer LLP
3883 Howard Hughes Pkwy, Ste. 1100
Las Vegas, NV 89169
Attorney for Respondent

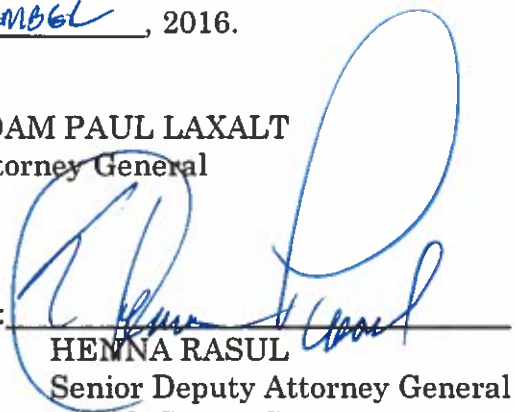
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The foregoing Consent Decree between BEVM and the STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No. FB16-05 is approved as to form and content.

DATED this 13 day of DECEMBER, 2016.

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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O R D E R

By a majority vote on the 13TH day of December, 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 BEVM, License No. EST10.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 13TH day of December, 2016.

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