

BEFORE THE NEVADA STATE BOARD OF
FUNERAL AND CEMETERY SERVICES

IN THE MATTER OF)

JAMES LEE, Managing Funeral)
Director,)
License No. FD69,)
Respondent.)

CASE NOS. FB17-23 and FB17-24

CONSENT DECREE

The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having jurisdiction over JAMES LEE ("LEE"), Funeral Director License No. FD69; pursuant to NRS 642.5175; complaint against said license holder having been received alleging violations of the Nevada statutes and regulations controlling the practice of funeral directors 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

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

LEE has freely and voluntarily entered into this Consent Decree, and is aware of his rights to contest the charges pending against him. These rights include representation by an attorney at his 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 him, the right to present evidence on his own behalf, the right to testify on his own behalf, the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the

1 complaint, and the right to obtain judicial review of the decision. All of these rights are
2 being voluntarily waived by LEE in exchange for the BOARD'S acceptance of this Consent
3 Decree.

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

9 JURISDICTION

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

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

17 PUBLICATION OF CONSENT DECREE

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

25 INDEMNIFICATION

26 LEE, for himself, his heirs, executors, administrators, successors and assigns,
27 hereby indemnifies and holds harmless the State of Nevada, the BOARD, the Nevada
28 Attorney General's office and each of its members, agents and employees in their individual

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

7 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

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

15 1. LEE held a valid funeral director license on the date of the alleged violations
16 and continues to hold a valid funeral director license through the present day.

17 2. LEE was the managing funeral director for Heritage Mortuary Inc. ("HMI") on
18 the date of the alleged violations and continues to be the managing funeral director of HMI
19 through the present day.

20 3. A first complaint was received by the BOARD on or about September 5, 2017,
21 regarding decedent JLMT received by HMI on July 20, 2017.

22 a. JLMT's family planned and paid for funeral arrangements to transpire
23 on August 11, 2017, with burial at the Veteran's Cemetery immediately following the
24 services.

25 b. On August 11, 2017, Tyrone Seals, President of HMI, waited until the
26 day the family was scheduled to leave for the cemetery to inform decedent's husband and
27 other family members that a burial permit had not been obtained and the scheduled burial
28 would have to be cancelled.

1 c. The burial was subsequently rescheduled and transpired on August 17,
2 2017, where the following events occurred:

3 i. decedent's husband and family members were summoned from
4 the funeral procession upon arrival at the Southern Nevada Veterans Cemetery ("SNVC").

5 ii. they were asked to complete paperwork in the business office
6 which should have been previously completed by HMI.

7 iii. all burial fees were previously paid to HMI and HMI was to have
8 made all burial arrangements and paid all fees to SNVC.

9 iv. Mr. Seals failed to bring the \$450.00 burial fee check to SNVC,
10 thereby causing the family further delay and embarrassment.

11 4. The second complaint was received by the BOARD on or about September 15,
12 2017, regarding decedent LAR who died on June 29, 2017.

13 a. Decedent's family contracted with HMI to have a scheduled viewing on
14 July 14, 2017.

15 b. When the family and friends arrived for the scheduled viewing, the
16 body had not been prepared.

17 c. Family and friends were made to wait for an extended period of time
18 and some left before the viewing took place.

19 d. The registry book which the family paid for could not be located.

20 e. During a conference call with family members, Mr. Seals represented
21 that he would take care of the matter, but he never followed up with the family.

22 f. Due to the fact that Mr. Seals never returned the family's phone calls,
23 they were not sure if the cremation had occurred as of August 29, 2017.

24 g. Records indicate that the cremation did not occur until October 4, 2017.

25 h. A refund was not provided to the family for the registry book until after
26 a complaint was filed with the Board and no death certificate was provided despite the fact
27 that it had been paid for by the family.

28 5. NRS 642.5174(11) states that unprofessional conduct includes violation of any

1 provision of this chapter, any regulation adopted thereto or any order of the Board.

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

6 7. NRS 642.5174(15) states that unprofessional conduct includes taking undue
7 advantage of the patrons of a funeral establishment or direct cremation facility, or being
8 guilty of fraud or misrepresentation in the sale of merchandise to those patrons.

9 8. NRS 642.5174(18) states that unprofessional conduct includes unethical
10 practices contrary to the public interest as determined by the Board.

11 9. NRS 440.020 states that every dead body lying within this state shall be
12 decently buried or cremated with a reasonable time after death.

13 10. NRS 440.450 states that the funeral director or person acting as undertaker
14 is responsible for obtaining and filing the certificate of death with the local health officer,
15 or his or her deputy, in the registration district in which the death occurred, and for
16 securing a burial or removal permit prior to any disposition of the body.

17 11. NRS 642.345(3) states that a funeral director is responsible for the proper
18 management of each funeral establishment or direct cremation facility of which the funeral
19 director is the manager.

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

21 The following acts are grounds for which the Board may take disciplinary action
22 against a person who holds a license, permit, or certificate issued by the Board pursuant to
23 this chapter or chapter 451 or chapter 452 of NRS, or may refuse to issue such a license,
24 permit, or certificate to an applicant therefor:

- 25 1. Conviction of a crime involving moral turpitude.
- 26 2. Unprofessional conduct.
- 27 3. False or misleading advertising.
- 28 4. Conviction of a felony relating to the practice of funeral directors
or funeral arrangers.
5. Conviction of a misdemeanor that is related directly to the business
of a funeral establishment, direct cremation facility, cemetery, or

crematory.

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13. That pursuant to Nevada Revised Statute (NRS) 642.5176:

If the Board determines that a person who holds a license, permit or certificate issued by the Board pursuant to this chapter or chapter 451 or 452 of NRS has committed any of the acts set forth in NRS 642.5175 the Board may:

1. Refuse to renew the license or permit;
2. Revoke the license or permit;
3. Suspend the license or permit for a definite period or until further order of the Board;
4. Impose a fine of not more than \$5,000 for each act that constitutes a ground for disciplinary action;
5. Place the person on probation for a definite period subject to any reasonable conditions imposed by the Board;
6. Administer a public reprimand; or
7. Impose any combination of disciplinary actions set forth in paragraphs (a) to (f), inclusive.
 - a) The Board shall not administer a private reprimand.
 - b) An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

14. LEE 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

LEE stipulates that pursuant to the authority of NRS 642.5176, the BOARD will administer a PUBLIC REPRIMAND. In addition, LEE agrees to comply with the following conditions:

1. Within thirty (30) days of the approval and execution of this Consent Decree, LEE shall pay four hundred sixty three dollars and 08/100 (\$463.08) in legal and investigative fees and one thousand dollars (\$1,000.00) in administrative fines.


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

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COMPLETE CONSENT DECREE

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

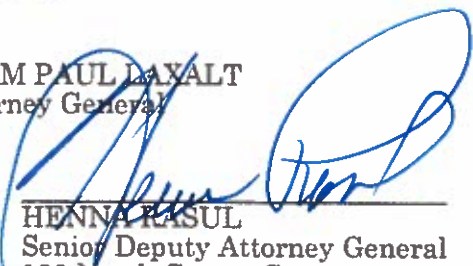
DATED this 24th day of September, 2018.

By: 
JAMES LEE
Funeral Director License No. FD69

The foregoing Consent Decree between JAMES LEE and the STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case Nos. FB17-23 and FB17-24 is approved as to form and content.

DATED this 25 day of October, 2018.

ADAM PAUL LAXALT
Attorney General

By: 
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ORDER

By a majority vote on the 11th day of December, 2018, 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 JAMES LEE.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 11th day of December, 2018.

By: _____
Dr. Randy Sharp, Chairman
for the Board of Funeral and
Cemetery Services