

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

3 IN THE MATTER OF)

4)
5 MITCHELL AMOS, Funeral Director)
License No. FD30)

CASE NO. FB18-13

6 Respondent.)
7 _____)

8 **CONSENT DECREE**

9 The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having
10 jurisdiction over MITCHELL AMOS ("AMOS") Funeral Director License No. FD30
11 pursuant to NRS 642.5175; a complaint against said license holder having been received
12 alleging violations of the Nevada statutes and regulations controlling the practice of
13 funeral directors; 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 AMOS is aware of, understands, and has been advised of the effect of this Consent
19 Decree, which he has carefully read and fully acknowledged. AMOS has had the
20 opportunity to consult with competent counsel of his choice.

21 AMOS has freely and voluntarily entered into this Consent Decree, and is aware of
22 his rights to contest the charges pending against him. These rights include
23 representation by an attorney at his 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 him, the
26 right to present evidence on his own behalf, the right to testify on his own behalf, the
27 right to receive written findings of fact and conclusions of law supporting the decision on
28 the merits of the complaint, and the right to obtain judicial review of the decision. All of

1 these rights are being voluntarily waived by AMOS 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 his
5 consideration of the Consent Decree. AMOS hereby waives any claim of bias or prejudice
6 based upon said consideration by any member of the BOARD in any subsequent
7 disciplinary hearing conducted by the BOARD.

8 JURISDICTION

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

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

16 PUBLICATION OF CONSENT DECREE

17 AMOS 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 AMOS, for himself, his 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 its 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 and 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 **CONTINGENCY**

7 By signing the Consent Decree, Respondent understands and agrees that he may
8 not withdraw his agreement or seek to rescind the Consent Decree.

9 The parties understand and agree that facsimile copies of this Consent Decree,
10 including facsimile signatures thereto, shall have the same force and effect as the
11 originals.

12 This Consent Decree is intended to be an integrated writing representing the
13 complete, final, and exclusive embodiment of their agreement. It supersedes any and all
14 prior or contemporaneous agreements, understandings, discussions, negotiations, and
15 commitments (written or oral).

16 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

17 AMOS understands the nature of the allegations under consideration by the
18 BOARD. He acknowledges that the conduct alleged in the Complaint, if proven,
19 constitutes violations of the Nevada Board of Funeral and Cemetery Services Practice Act
20 (NRS and NAC 642) and Nevada Revised Statutes Chapter 440. He further recognizes
21 that if this matter were to be taken to a disciplinary hearing before the BOARD, there is
22 a substantial likelihood that the following allegations could be proven as true, and that as
23 a result he would be subject to disciplinary action by the BOARD. As such, AMOS does
24 not contest the following allegations:

25 1. AMOS held a valid funeral director license on the date of the alleged
26 violation, and continues to hold a valid funeral director license through the present day.

27 2. AMOS was the funeral director handling the disposition of a fetal death
28 which occurred on September 12, 2017.

1 3. AMOS advised the crematory operator to perform the cremation which
2 occurred on September 19, 2017, and advised staff that a permit was not required.

3 4. AMOS contacted that BOARD and SOUTHERN NEVADA HEALTH
4 DISTRICT to self-report the error.

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

9 6. NRS 440.450 states that the funeral director is responsible for obtaining and
10 filing the certificate of death with the local health officer, or his or her deputy, in the
11 registration district in which the death occurred, and for securing a burial or removal
12 permit prior to any disposition of the body.

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

14 The following acts are grounds for which the Board may take
15 disciplinary action against a person who holds a license, permit, or
16 certificate issued by the Board pursuant to this chapter or chapter 451
or chapter 452 of NRS, or may refuse to issue such a license, permit,
or certificate 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
21 directors or funeral directors.
- 22 5. Conviction of a misdemeanor that is related directly to the
23 business of a funeral establishment, direct cremation facility,
24 cemetery, or crematory.

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

26 If the Board determines that a person who holds a license, permit
27 or certificate issued by the Board pursuant to this chapter or
28 chapter 451 or 452 of NRS 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.

9. That pursuant to Nevada Revised Statute (NRS) 622.400, the Board may recover from a person reasonable attorney's fees and costs that are incurred by it as part of its investigative, administrative and disciplinary proceedings against the person if the regulatory body.

10. AMOS 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

AMOS stipulates that pursuant to the authority of NRS 642.5176, the BOARD will administer a PUBLIC REPRIMAND and place his Funeral Director License on PROBATION for sixty (60) days. During the term of the probation, AMOS agrees to comply with the following conditions:

1. Within thirty (30) days of the approval and execution of this Consent Decree, AMOS shall pay legal and investigative fees in the amount of one hundred fifty-four and 36/100 dollars (\$154.36).

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 AMOS.

b. In the event of default, AMOS agrees that his funeral director license shall be immediately suspended. The suspension of AMOS's license to practice as a funeral director shall continue until the unpaid balance is paid in full and the suspension is subject to being reported to all appropriate agencies.

2. Within sixty (60) days of the approval and execution of this Consent Decree, AMOS agrees to meet with a representative of Southern Nevada Health District together

1 with the BOARD Executive Director at a mutually agreeable time to review proper
2 procedures for obtaining permits and death certificates.

3 3. AMOS shall obey all federal, state and local laws, and orders of the BOARD,
4 which are not inconsistent with this Consent Decree, pertaining to practice as a funeral
5 director in this State. Any and all violations shall be reported by AMOS to the BOARD in
6 writing within seventy-two (72) hours

7 4. AMOS agrees that he will be financially responsible for all requirements of
8 this Consent Decree and any reasonable financial assessments by the Board for the cost
9 of monitoring its compliance or carrying out the provisions of this Consent Decree.

10 5. The BOARD may request additional information from AMOS to determine
11 compliance with the terms of the Consent Decree and may require that he meet with the
12 Executive Director and BOARD counsel for further evaluation of his compliance with the
13 Consent Decree. If the BOARD does not request additional information or initiate any
14 further investigation, the probation shall be automatically terminated.

15 **VIOLATION OF TERMS OF CONSENT DECREE**

16 AMOS understands that the BOARD may, upon thirty (30) days' notice to
17 respondent, convene a hearing for the limited purpose of establishing that he violated the
18 terms of this Consent Decree. If such a hearing results in a finding of a violation of this
19 Consent Decree, the BOARD may impose any penalty upon AMOS authorized by NRS
20 642.5176.

21 AMOS agrees to waive his rights to appeal the substantive legal basis of the
22 original disciplinary action, which is the basis for this Consent Decree. In the event an
23 alleged violation of the Consent Decree is taken to hearing and the facts which constitute
24 the violation are determined to be not proven, no disciplinary action shall be taken by the
25 BOARD.

26 **ACCEPTANCE BY THE BOARD**

27 This Consent Decree will be presented and accepted by the BOARD with a
28 recommendation for approval from the Attorney General's Office at its next meeting.

COMPLETE CONSENT DECREE

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

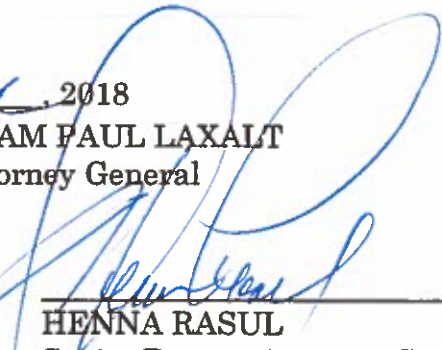
DATED this 15 day of November, 2018

By: 
MITCHELL AMOS
Funeral Director License No. FD30

The foregoing Consent Decree between MITCHELL AMOS, and the STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No. FB18-13 is approved as to form and content.

DATED this 27 day of November, 2018

ADAM PAUL LAXALT
Attorney General


By: 
HENNA RASUL
Senior Deputy Attorney General
100 N. Carson Street
Carson City, Nevada 89701
(775) 684-1234

ORDER

1
2 By a majority vote on the 11th day of December, 2018, the State of Nevada
3 Board of Funeral and Cemetery Services approved and adopted the terms and conditions
4 set forth in the attached Consent Decree in the matter of MITCHELL AMOS.

5 **IT IS HEREBY ORDERED AND MADE EFFECTIVE.**

6 **DATED this 11th day of December, 2018**

7
8 By: 
9 Dr. Randy Sharp, Chairman
for the Board of Funeral and Cemetery Services