

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

3 **IN THE MATTER OF**)

4 **SUNRISE CREMATION SOCIETY**)
5 **License No. DC88L,**)
6 **Respondent.**)

Case No. FB19-01

7 **CONSENT DECREE**

8 The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having
9 jurisdiction over SUNRISE CREMATION SOCIETY ("SCS") Direct Cremation Facility
10 License No. DC88L pursuant to NRS 642.5175; complaint against said license holder
11 having been received alleging violations of the Nevada statutes and regulations controlling
12 the operation of direct cremation facilities; and the parties being mutually desirous of
13 settling the controversy between them relative to the pending complaint;

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

16 **VOLUNTARY WAIVER OF RIGHTS**

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

20 SCS has freely and voluntarily entered into this Consent Decree, and is aware of its
21 rights to contest the charges. These rights include representation by an attorney at its own
22 expense, the right to file an answer in response to a formal complaint, the right to a public
23 hearing on any charges or allegations formally filed, the right to confront and cross-
24 examine witnesses called to testify against it, the right to present evidence on its own
25 behalf, the right to testify on its own behalf, the right to receive written findings of fact and
26 conclusions of law supporting the decision on the merits of the complaint, and the right to
27 obtain judicial review of the decision. All of these rights are being voluntarily waived by
28 SCS 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
3 the Consent Decree. SCS hereby waives any claim of bias or prejudice based upon said
4 consideration by any member of the BOARD in any subsequent disciplinary hearing
5 conducted by the BOARD.

6 JURISDICTION

7 SCS acknowledges that the BOARD has jurisdiction over it and the conduct alleged
8 in the Complaint. SCS acknowledges that the BOARD has the legal power and authority
9 to take disciplinary action, including, but not limited to, the revocation of its license to
10 operate a direct cremation facility in Nevada.

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

14 PUBLICATION OF CONSENT DECREE

15 SCS acknowledges that at the time this Consent Decree becomes effective, it also
16 becomes a public document and will be reported to the State of Nevada, Legislative Council
17 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
21 requesting.

22 IDEMNIFICATION

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

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

4 **STIPULATED FACTS AND CONSLUSIONS OF LAW**

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

13 1. SCS held a valid permit to operate a direct cremation facility on the date of
14 the alleged violation, and continues to hold a valid permit to operate a direct cremation
15 facility through the present day.

16 2. The complaint references the January 23, 2019, passing of David Walters, who
17 was a Nevada licensed funeral director (FD70) with access to the Electronic Death Registry
18 System.

19 a. On November 12, 2018, Mr. Walters' attorney informed the board by
20 letter that Mr. Walters was not a licensed funeral director at any facility, although his
21 attorney subsequently clarified that the November 12, 2018, notification was intended to
22 convey that Mr. Walters was no longer the managing funeral director for any facility.

23 b. The complaint alleges that David Walters signed ninety-two (92) death
24 records since November 12, 2018, and then signed eleven (11) more death records after his
25 reported passing.

26 c. All of the aforementioned death records were assigned to SCS.

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1 3. The complaint alleges that Ellen Meade FA134, admitted she and Michael
2 Walters FA97, were logged into David Walters' Electronic Death Registry System account
3 and used this account when entering death information.

4 a. It was represented that Ellen Meade and Michael Walters had their
5 own accounts and passwords to enter such information.

6 b. It is further alleged that Ellen Meade and Michael Walters used David
7 Walters' account not only to enter death information, but to also affix his signature as the
8 representative funeral director to the records.

9 4. NRS 642.5174(1) states that unprofessional conduct includes
10 misrepresentation or fraud in the operation of a funeral establishment, direct cremation
11 facility, cemetery or crematory, or the practice of a funeral director or funeral arranger.

12 5. NRS 642.5174(11) states that unprofessional conduct includes violation of any
13 provision of this chapter, any regulation adopted pursuant thereto or any order of the
14 Board.

15 6. NRS 642.5174(12) states that unprofessional conduct includes violation of any
16 state law or municipal or county ordinance affecting the handling, custody, care or
17 transportation of dead human bodies, including, without limitation, chapters 440, 451 and
18 452 or NRS.

19 7. NRS 642.5174(13) states that unprofessional conduct includes fraud or
20 misrepresentation in obtaining a permit or license.

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

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

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

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

- 7 (1) Conviction of a crime involving moral turpitude.
- 8 (2) Unprofessional conduct.
- 9 (3) False or misleading advertising.
- 10 (4) Conviction of a felony relating to the practice of funeral
11 directors or funeral arrangers.
- 12 (5) Conviction of a misdemeanor that is related directly to the
13 business of a funeral establishment, direct cremation facility,
14 cemetery, or crematory;

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

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

- 20 (a) Refuse to renew the license or permit;
- 21 (b) Revoke the license or permit;
- 22 (c) Suspend the license or permit for a definite period or
23 until further order of the Board;
- 24 (d) Impose a fine of not more than \$5,000 for each act that
25 constitutes a ground for disciplinary action;
- 26 (e) Place the person on probation for a definite period
27 subject to any reasonable conditions imposed by the
28 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.

 12. That pursuant to Nevada Revised Statute (NRS) 622.400, the Board may
recover from a person reasonable attorney's fees and costs.

 13. SCS 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

 SCS stipulates that pursuant to the authority of NRS 642.5176, the BOARD will
administer a public REPRIMAND and place its direct cremation facility permit on

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1 PROBATION for one (1) year. During the term of the probation, SCS agrees to comply with
2 the following conditions:

3 1. Within thirty (30) days of the approval and execution of this Consent Decree,
4 SCS shall pay three hundred eighty two and 04/100 dollars (\$382.04) in attorney's fees and
5 costs and two thousand five hundred dollars (\$2,500.00) in administrative fines.

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

9 b. In the event of default, SCS agrees that its funeral establishment
10 permit shall be immediately suspended. The suspension of SCS's certificate shall continue
11 until the unpaid balance is paid in full and the suspension is subject to being reported to
12 all appropriate agencies.

13 2. SCS shall require weekly meetings between the funeral director and SCS staff
14 to ensure proper oversight and supervision of the direct cremation facility.

15 3. SCS shall obey all federal, state and local laws, and orders of the BOARD,
16 which are not inconsistent with this Consent Decree, pertaining to operating a funeral
17 establishment in this State. Any and all violations shall be reported by SCS to the BOARD
18 in writing within seventy-two (72) hours.

19 4. SCS agrees that it will be financially responsible for all requirements of this
20 Consent Decree and any reasonable financial assessments by the Board for the cost of
21 monitoring its compliance or carrying out the provisions of this Consent Decree.

22 5. After one (1) year from the approval and execution of the Consent Decree, SCS
23 shall submit a written request to the BOARD for termination of the probation.
24 SCS understands that prior to terminating the probation SCS must prove to the BOARD's
25 satisfaction that it has complied with all the terms and conditions of the Consent Decree.
26 The BOARD may request additional information from SCS to determine compliance with
27 the terms of the Consent Decree and may require that a representative meet with the
28 Executive Director and BOARD counsel for further evaluation of compliance with the

1 Consent Decree. If the BOARD does not request additional information or initiate any
2 further investigation, the probation shall be automatically terminated.

3 **VIOLATION OF TERMS OF CONSENT DECREE**

4 SCS understands that the BOARD may, upon thirty (30) days' notice to respondent,
5 convene a hearing for the limited purpose of establishing that it violated the terms of this
6 Consent Decree. If such a hearing results in a finding of a violation of this Consent Decree,
7 the BOARD may impose any penalty upon SCS authorized by NRS 642.5176.

8 SCS agrees to waive its rights to appeal the substantive legal basis of the original
9 disciplinary action, which is the basis for this Consent Decree. In the event an alleged
10 violation of the Consent Decree is taken to hearing and the facts which constitute the
11 violation are determined to be not proven, no disciplinary action shall be taken by the
12 BOARD.

13 **ACCEPTANCE BY THE BOARD**

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


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COMPLETE CONSENT DECREE

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

DATED this 1 day of Sept, 2019.

By: 
JERRY LOU GUTTMAN,
Managing Member
Serenity VII, LLC DBA Sunrise Cremation
Society SC88L
7220 North 16th Street, Suite C
Phoenix, AZ 85020

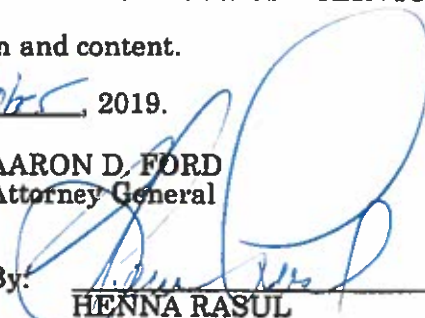
DATED this 3 day of Sept, 2019.

By: 
GREGORY M. SCHULMAN, ESQ.
Thorndal Armstrong et. al.
1100 E. Bridger Avenue
Las Vegas, NV 89101

The foregoing Consent Decree between SUNRISE CREMATION SOCIETY, and the STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No. FB19-01 is approved as to form and content.

DATED this 9 day of October, 2019.

AARON D. FORD
Attorney General

By: 
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ORDER

By a majority vote on the 21st day of August, 2019, the State of Nevada Board of Funeral and Cemetery Services approved and adopted the terms and conditions set forth in the attached Consent Decree in the matter of SUNRISE CREMATION SOCIETY.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 9th day of October, 2019

STATE OF NEVADA BOARD OF
FUNERAL AND CEMETARY SERVICES

By: *Dr. Randy Sharp*
DR. RANDY SHARP
Chairman