

1 **BEFORE THE STATE OF NEVADA**

2 **FUNERAL AND CEMETERY SERVICES BOARD**

3 IN THE MATTER OF:

4 HITES FUNERAL HOME AND  
5 CREMATORY,  
6 Establishment Permit EST51,  
7 Crematory Permits CRE104 and CRE17,  
8 Respondent.

Case Nos. FB19-07 and FB19-10

8 **CONSENT DECREE**

9 The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having  
10 jurisdiction over HITES FUNERAL HOME AND CREMATORY ("HITES"), Funeral  
11 Establishment Permit No. EST51, Crematory Permits CRE104 and CRE17; pursuant to  
12 NRS 642.5175; complaint against said license and permit holders having received alleging  
13 violations of the Nevada statutes and regulations controlling the practice of operating  
14 funeral establishments and operating crematories; and the parties being mutually desirous  
15 of settling the controversy between them relative to the pending complaint;

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

18 **VOLUNTARY WAIVER OF RIGHTS**

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

22 HITES has freely and voluntarily entered into this Consent Decree, and is aware of  
23 its rights to contest the pending charges. These rights include representation by an  
24 attorney at its own expense, the right to file an answer in response to a formal complaint,  
25 the right to a public hearing on any charges or allegations formally filed, the right to  
26 confront and cross-examine witnesses called to testify against it, the right to present  
27 evidence on its own behalf, the right to testify on its own behalf, the right to receive written  
28 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 HITES in exchange for the BOARD'S acceptance of this  
3 Consent 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. HITES hereby waive 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 HITES acknowledges that the BOARD has jurisdiction over it and the conduct  
11 alleged in the Complaint. HITES acknowledges that the BOARD has the legal power and  
12 authority to take disciplinary action, including, but not limited to, the revocation of permits  
13 to operate funeral establishments in Nevada.

14 HITES 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 HITES 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 HITES, for itself, its heirs, executors, administrators, successors and assigns, hereby  
27 indemnify and hold harmless the State of Nevada, the BOARD, the Nevada Attorney  
28 General's Office and each of its members, agents and employees in their individual and

1 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 entities as well as all liability, losses, and damages of any nature whatsoever  
4 that the persons and entities named in this paragraph shall have or may at any time  
5 sustain or suffer by reason of this investigation, this disciplinary action, this settlement or  
6 its administration.

7 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

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

16 1. HITES held valid permits to operate a funeral establishment and crematory  
17 located at 438 West Sunset Boulevard, Henderson, Nevada 89011 and a second crematory  
18 located at 1961 Whitney Mesa Drive, Henderson, Nevada 89014 on the date of the alleged  
19 violations, and continues to hold a valid establishment permit and crematory permits  
20 through the present day.

21 2. The BOARD initiated a complaint on or about July 30, 2019, alleging Clark  
22 County Social Services removed HITES from its social services contract because there were  
23 too many bodies being stored at the establishment for extended periods of time thereby  
24 raising concerns about how it was caring for the bodies.

25 a. It is alleged that Davis Funeral Home is currently in possession of  
26 many social services bodies received from HITES and there is information indicating that  
27 deceased individuals were stored at HITES for months (and in several other cases, over a  
28 year) without transferring or initiating permits or finalizing disposition.

1           3.     The second complaint was initiated as a result of an inspection performed by  
2 the BOARD inspector.

3           a.     It is alleged that the BOARD inspector noticed many discrepancies on  
4 the funeral establishment's records with the spelling of names of decedents and dates of  
5 death.

6           b.     The inspection report noted the following:

7           i.     Bodies that had been in the care of the funeral home for extended  
8 periods of time;

9           ii.    The location was not being maintained in a sanitary and  
10 professional manner including having bodily fluids seeping onto shelves and soaking  
11 sheeting without properly being cleaned.

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

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

17          6.     NRS 642.5174(12) states that unprofessional conduct includes violation of any  
18 state law or municipal or county ordinance affecting the handling, custody, care or  
19 transportation of dead human bodies, including, without limitation, chapters 440, 451 and  
20 452 of NRS.

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

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

26          9.     NRS 440.450 states that the funeral director or person acting as undertaker  
27 is responsible for obtaining and filing the certificate of death with the local health officer,

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1 or his or her deputy, in the registration district in which the death occurred, and for  
2 securing a burial or removal permit prior to any disposition of the body.

3 10. NRS 440.490 states that the funeral director or person acting as undertaker  
4 shall present the completed certificate of death to the local registrar within seventy-two  
5 (72) hours after the occurrence or discovery of the death. If a case is referred to the coroner,  
6 he or she shall present a completed certificate to the local registrar upon disposition of the  
7 investigation.

8 11. NRS 451.020 states that every dead body lying within this state shall be  
9 decently buried or cremated with a reasonable time after death.

10 12. NRS 451.675(1)(a) and (b) states that if the operator of a crematory cannot  
11 cremate human remains immediately after receiving them, the operator shall place them  
12 in a holding facility within or adjacent to the crematory which preserves the dignity of the  
13 remains and protects for the health and safety of employees of the operator.

14 13. NAC 451.070(1) and (2) states that the operator of a crematory, funeral  
15 establishment or direct cremation facility shall ensure that any human remains awaiting  
16 cremation are properly identified at all times and the identity of the human remains is  
17 maintained throughout the entire cremation process.

18 14. NAC 642.158(6) states that the premises of any location where human  
19 remains are stored must be maintained in a sanitary and professional manner.

20 15. That pursuant to Nevada Revised Statute (NRS) 642.5175:  
21 The following acts are grounds for which the Board may take  
22 disciplinary action against a person who holds a license, permit,  
23 or certificate issued by the Board pursuant to this chapter or  
24 chapter 451 or chapter 452 of NRS, or may refuse to issue such a  
25 license, permit, or certificate to an applicant therefor:  
26 1) Conviction of a crime involving moral turpitude.  
27 2) Unprofessional conduct.  
28 3) False or misleading advertising.  
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.

1 16. That pursuant to Nevada Revised Statute (NRS) 642.5176:  
2 If the Board determines that a person who holds a license, permit  
3 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:

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

12 17. HITES does not contest the allegations in the Complaint, and acknowledges  
13 that as a consequence they are subject to discipline pursuant to the above charges and  
14 statutory provisions.

#### 15 STIPULATED ADJUDICATION

16 HITES stipulates that pursuant to the authority of NRS 642.5176, the BOARD will  
17 impose a suspension of its establishment permit EST51 and crematory permits CRE104  
18 and CRE17 for six (6) months. This suspension will be stayed and HITES will be placed  
19 on probation for three (3) years. During the term of the probation, HITES agrees to comply  
20 with the following conditions:

21 1. Within thirty (30) days of the approval and execution of this Consent Decree,  
22 HITES shall six hundred eighty-six and 90/100 dollars (\$686.90) in attorney's fees and costs  
23 and an administrative fine in the amount of five thousand dollars (\$5,000.00). HITES may  
24 contact the BOARD within thirty (30) days and submit a proposal in writing and propose  
25 a reasonable request for a monthly payment plan to reimburse the BOARD for  
26 administrative fines. Any proposed reasonable payment plan must have the balance paid-  
27 in-full within one (1) year of the executed consent decree and must be approved by the  
28 BOARD'S Executive Director. Failure to remit payment to the BOARD for the

1 administrative fines shall be viewed as non-compliance by HITES as it pertains to this  
2 Consent Decree, with the BOARD engaging in the option to pursue collection of this  
3 unreimbursed cost.

4 2. Upon approval and execution of the consent decree, HITES shall:

5 a. Immediately allow the BOARD inspector to physically inspect and log  
6 all bodies currently in the care of HITES;

7 b. Submit a plan for BOARD approval at the same time this Consent  
8 Decree is reviewed by the BOARD. The plan shall include:

9 i. Policies and procedures to be put into place to ensure that bodies  
10 are cremated or buried within a reasonable time;

11 ii. Methods for properly tracking all cases in the custody of HFH;  
12 and

13 iii. A detailed timeline addressing all cleanliness, sanitation and  
14 organizational issues to ensure the location is operating in a sanitary and professional  
15 manner;

16 c. Submit a report on the last day of each month during the probationary  
17 period which shall include the following:

18 i. A list of all decedents under its care who have not received burial  
19 or cremation within forty-five (45) days of death;

20 ii. If there is a delay in disposition, an explanation for the delay and  
21 efforts made to ensure timely cremation or burial.

22 d. Submit to monthly inspections for the first six (6) months of probation  
23 and every six (6) months for the remainder of the probationary period; and

24 e. Enter at least the minimum available decedent information into the  
25 Electronic Death Registry System ("EDRS") within twenty-four (24) hours of taking custody  
26 of the remains of a decedent once the plan described in paragraph 2(b) is approved by the  
27 BOARD.

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1           3.     HITES shall obey all federal, state and local laws, and orders of the BOARD,  
2 which are not inconsistent with this Consent Decree, pertaining to the operation of a  
3 funeral establishment and crematory in this State. Any and all violations shall be reported  
4 by HITES to the BOARD in writing within seventy-two (72) hours.

5           4.     HITES agrees that it will be financially responsible for all requirements of  
6 this Consent Decree and any reasonable financial assessments by the Board for the Cost of  
7 monitoring its compliance or carrying out the provisions of this Consent Decree.

8           5.     After three (3) years from the approval and execution of the Consent Decree,  
9 HITES shall submit a written request to the BOARD for termination of the probation.  
10 HITES' representative understands that prior to terminating the probation it must prove  
11 to the BOARD's satisfaction that it has complied with all the terms and conditions of the  
12 Consent Decree. The BOARD may request additional information from HITES to  
13 determine compliance with the terms of the Consent Decree and may require that its  
14 representative meet with the Executive Director and BOARD counsel for further  
15 evaluation of its compliance with the Consent Decree. If the BOARD does not request  
16 additional information or initiate any further investigation, the probation shall be  
17 automatically terminated.

18           6.     The BOARD reserves the right to reinstate legal action against HITES upon  
19 violation of this Consent Decree, and should HITES violate any term in this Consent  
20 Decree, the Consent Decree shall automatically terminate, and its establishment permit  
21 and crematory permits shall be suspended for six (6) months effective immediately.

22                                   **VIOLATION OF TERMS OF CONSENT DECREE**

23           HITES understands that the BOARD may, upon thirty (30) days' notice to HITES,  
24 convene a hearing for the limited purpose of establishing that it violated the terms of this  
25 Consent Decree. If such a hearing results in a finding of a violation of this Consent Decree,  
26 the BOARD may impose any penalty upon HITES authorized by NRS 642.5176.

27           HITES agrees to waive its rights to appeal the substantive legal basis of the original  
28 disciplinary action, which is the basis for this Consent Decree. In the event an alleged



1 violation of the Consent Decree is taken to hearing and the facts that constitute the  
2 violation are determined to be not proven, no disciplinary action shall be taken by the  
3 BOARD.

4 **ACCEPTANCE BY THE BOARD**

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

7 **COMPLETE CONSENT DECREE**

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

11 DATED this 10th day of January 2020, 2019

12  
13 By: 

14 JAMES A. LEE, President  
15 Hites Enterprises, Inc.  
16 Hites Funeral Home and Crematory  
Funeral Establishment Permit No. EST51  
Crematory Permit Nos. CRE104 and CRE17  
Respondent

17 The foregoing Consent Decree between HITES ENTERPRISES, INC. dba HITES  
18 FUNERAL HOME AND CREMATORY and the STATE OF NEVADA FUNERAL AND  
19 CEMETERY SERVICES BOARD in Case Nos. FB19-07 and FB19-10 is approved as to  
20 form and content.

21 DATED this 22 day of January, <sup>2020</sup> 2019.

22  
23 AARON D. FORD  
Attorney General

24 By: 

25 HENNA RASUL  
26 Senior Deputy Attorney General  
27 Office of the Attorney General  
100 North Carson Street  
Carson City, Nevada 89701  
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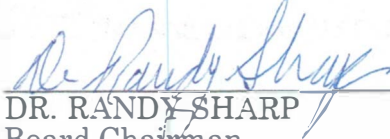
**ORDER**

By a majority vote on the 05 day of FEBRUARY, 2020, 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 HITES ENTERPRISES, INC. dba HITES FUNERAL HOME AND CREMATORY.

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

DATED this 05 day of Februrary, 2020

STATE OF NEVADA FUNERAL AND  
CEMETERY SERVICES BOARD

By:   
DR. RANDY SHARP  
Board Chairman