

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

3
4 **IN THE MATTER OF:**

Case No. FB20-09

5 **SERENITY VII, LLC**
6 **SUNRISE CREMATION SOCIETY**
7 **Direct Cremation Facility Permit**
8 **No. DC88L**

9 **And**

10 **EDWARD RODRIGUEZ, JR.,**
11 **Managing Funeral Director**
12 **Funeral Director License No. FD892**

13 **Respondents.**

14 **CONSENT DECREE**

15 The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having
16 jurisdiction over SUNRISE CREMATION SOCIETY Direct Cremation Facility Permit No
17 DC88L and EDWARD RODRIGUEZ Funeral Director License No. FD892
18 ("RESPONDENTS"), pursuant to NRS 642.5175; complaint against said permit and license
19 holders having been received alleging violations of the Nevada statutes and regulations
20 controlling direct cremation facilities and funeral directors; and the parties being mutually
21 desirous of settling the controversy between them relative to the pending complaint;

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

24 **VOLUNTARY WAIVER OF RIGHTS**

25 RESPONDENTS are aware of, understand, and have been advised of the effect of
26 this Consent Decree, which they have carefully read and fully acknowledged.
27 RESPONDENTS have had the opportunity to consult with competent counsel of their
28 choice.

 RESPONDENTS have freely and voluntarily entered into this Consent
Decree, and are aware of their rights to contest the charges. These rights include

1 representation by an attorney at their own expense, the right to file an answer in response
2 to a formal complaint, the right to a public hearing on any charges or allegations formally
3 filed, the right to confront and cross-examine witnesses called to testify against them, the
4 right to present evidence on their own behalf, the right to testify on their own behalf, the
5 right to receive written findings of fact and conclusions of law supporting the decision on
6 the merits of the complaint, and the right to obtain judicial review of the decision. All of
7 these rights are being voluntarily waived by RESPONDENTS in exchange for the
8 BOARD'S acceptance of this Consent Decree.

9 If the Consent Decree is not accepted by the BOARD, no member of the BOARD will
10 be disqualified from further hearing of this matter, by reason of his or her consideration of
11 the Consent Decree. RESPONDENTS hereby waive any claim of bias or prejudice based
12 upon said consideration by any member of the BOARD in any subsequent disciplinary
13 hearing conducted by the BOARD.

14 JURISDICTION

15 RESPONDENTS acknowledge that the BOARD has jurisdiction over it and the
16 conduct alleged in the Complaint. RESPONDENTS acknowledge that the BOARD has the
17 legal power and authority to take disciplinary action, including, but not limited to, the
18 revocation of permits to operate a direct cremation facility and practice funeral directing
19 in Nevada.

20 RESPONDENTS acknowledge that the BOARD will retain jurisdiction over this
21 matter until all terms and conditions set forth in this Consent Decree have been met to the
22 satisfaction of the BOARD.

23 PUBLICATION OF CONSENT DECREE

24 RESPONDENTS acknowledge that at the time this Consent Decree becomes
25 effective, it also becomes a public document and will be reported to the State of Nevada,
26 Legislative Council Bureau, Disciplinary Action Reporting System; and such other national
27 databases as required by law. It is also understood that any meeting during which the
28 BOARD considers and accepts or rejects this Consent Decree is open to the public and that

1 the minutes of the BOARD meeting are a public document, available for inspection by any
2 person so requesting.

3 INDEMNIFICATION

4 RESPONDENTS, for themselves, their heirs, executors, administrators, successors
5 and assigns, hereby indemnifies and hold harmless the State of Nevada, the BOARD, the
6 Nevada Attorney General's office and each of its members, agents and employees in their
7 individual and representative capacities against any and all claims, suits, demands,
8 actions, debts, damages, costs, charges, and expenses, including court costs and attorney's
9 fees against any persons entities as well as all liability, losses, and damages of any nature
10 whatsoever that the persons and entities named in this paragraph shall have or may at
11 any time sustain or suffer by reason of this investigation, this disciplinary action, this
12 settlement or its administration.

13 STIPULATED FACTS AND CONCLUSIONS OF LAW

14 RESPONDENTS understand the nature of the allegations under consideration by
15 the BOARD. They acknowledge that the conduct alleged in the complaint, if proven,
16 constitutes violations of the Nevada Board of Funeral and Cemetery Services Practice Act
17 (NRS and NAC 642). They further recognize that if this matter were to be taken to a
18 disciplinary hearing before the BOARD, there is a substantial likelihood that the following
19 allegations could be proven as true, and that as a result they would be subject to
20 disciplinary action by the BOARD. As such, RESPONDENTS do not contest the following
21 allegations:

22 1. RESPONDENTS held valid permits to operate the direct cremation facility
23 and a valid funeral director license referenced in this document on the date of the alleged
24 violation, and continue to hold said licenses and permits through the present day.

25 2. A complaint was received by the BOARD on or about October 7, 2020 alleging
26 the following:

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1 a. Decedent LES died on June 24, 2020, in Las Vegas, Nevada and was
2 transferred from Affordable Cremation and Burial ("ACB") to RESPONDENTS' care on
3 July 28, 2020.

4 b. A Certificate of Death ("COD") was initially filed by ACB to change the
5 facility name and funeral director to RESPONDENTS' name, but did not correct the
6 informant name and address.

7 c. On September 2, 2021, RESPONDENTS prepared an affidavit of
8 correction for multiple errors on the COD.

9 i. RESPONDENTS acknowledge that they failed to submit the
10 affidavit of correction to the Office of Vital Records until on or about October 27, 2020 and
11 complainant did not receive the corrected COD until November 19, 2020.

12 3. 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 4. 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 5. NRS 440.460 states that the funeral director or person acting as undertaker
18 shall obtain the personal and statistical particulars required from the person best qualified
19 to supply them, over signature and address of his or her informant.

20 6. NRS 642.345(3) which states the funeral director is responsible for the proper
21 management of each funeral establishment or direct cremation facility that he or she
22 manages.

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

24 The following acts are grounds for which the Board may
25 take disciplinary action against a person who holds a license,
26 permit, or 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:

- 27 1. Conviction of a crime involving moral turpitude.
28 2. Unprofessional conduct.
 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.

8. 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:

- (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. RESPONDENTS do not contest the allegations in the Complaint, and acknowledge that as a consequence are subject to discipline pursuant to the above charges and statutory provisions.

STIPULATED ADJUDICATION

RESPONDENTS stipulate that pursuant to the authority of NRS 642.5176, the BOARD will administer a PUBLIC REPRIMAND and RESPONDENTS must comply with the following conditions:

1. Within thirty (30) days of the approval and execution of this Consent Decree, RESPONDENTS shall pay five hundred forty and 26/100 dollars (\$540.26) in attorney's fees and costs.

- 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 RESPONDENTS.

b. In the event of default, RESPONDENTS agree that its funeral establishment permit and funeral director license shall be immediately suspended. The suspension of RESPONDENTS permit and license shall continue until the unpaid balance is paid in full and the suspension is subject to being reported to all appropriate agencies.

2. **RESPONDENTS** agree to submit any future completed affidavits of correction to the Office of Vital Records within three (3) working days of receipt.

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

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

VIOLATION OF TERMS OF CONSENT DECREE

RESPONDENTS understand that the BOARD may, upon thirty (30) days' notice to respondents, convene a hearing for the limited purpose of establishing that they violated the terms of this Consent Decree. If such a hearing results in a finding of a violation of this Consent Decree, the BOARD may impose any penalty upon RESPONDENT authorized by NRS 642.5176.

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

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ACCEPTANCE BY THE BOARD

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

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1 **COMPLETE CONSENT DECREE**

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

5 DATED this 7 day of July, 2021

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7 By: 

8 Gregory M. Schulman, Esq.
9 Thorndal Armstrong Delk Balkenbush & Eisinger
1100 E. Bridger Avenue, Las Vegas, NV 89101
Attorney for Respondents

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11 DATED this 6 day of July, 2021

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13 By: 

14 SERENITY VII, LLC.
15 SUNRISE CREMATION SOCIETY
Jerry Lou Guttman, Managing Member
Direct Cremation Facility Permit No. DL88L

16
17 DATED this 6 day of July, 2021

18
19 By: 

20 Edward Rodriguez, Jr., Managing Funeral Director
21 License No. FB892

1 The foregoing Consent Decree between SUNRISE CREMATION SOCIETY,
2 EDWARD RODRIGUEZ, JR., and the STATE OF NEVADA FUNERAL AND CEMETERY
3 SERVICES BOARD in Case No. FB20-09 is approved as to form and content.

4 DATED this 7 day of JULY, 2021

5 AARON D. FORD

6 Attorney General

7
8 By: /s/ Henna Rasul

9 HENNA RASUL

10 Senior Deputy Attorney General

11 Nevada Bar No. 7492

12 100 North Carson Street

13 Carson City, Nevada 89701-4717

14 Telephone: (775) 684-1234

15 Facsimile: (775) 684-1108

16 Email: hnrasul@ag.nv.gov

17 Attorneys for Petitioner

18 *State of Nevada, Board of*

19 *Funeral and Cemetery Services*

ORDER

By a majority vote on the day of 24 day of AUGUST, 2021, 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 Sunrise Cremation Society.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 24 day of AUGUST, 2021

By:



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