

BEFORE THE NEVADA STATE BOARD OF
FUNERAL AND CEMETERY SERVICES

IN THE MATTER OF

MOUNTAIN VIEW CREMATORY
License No. CRE3

Respondent.

CASE NO. FB17-25

CONSENT DECREE

The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having jurisdiction over MOUNTAIN VIEW CREMATORY ("MVC") Crematory License No. CRE3 pursuant to NRS 642.5175; complaint against said license holder having been received alleging violations of the Nevada statutes and regulations controlling the operators of crematories; 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

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

MVC has freely and voluntarily entered into this Consent Decree, and is aware of its rights to contest the charges. These rights include representation by an attorney at its 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 it, the right to present evidence on its own behalf, the right to testify on its own behalf, the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the complaint, and the right to obtain judicial review of

1 the decision. All of these rights are being voluntarily waived by MVC in exchange for the
2 BOARD'S acceptance of this Consent Decree.

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

8 JURISDICTION

9 MVC acknowledges that the BOARD has jurisdiction over it and the conduct alleged in
10 the Complaint. MVC acknowledges that the BOARD has the legal power and authority to
11 take disciplinary action, including, but not limited to, the revocation of its license to operate a
12 crematory in Nevada.

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

16 PUBLICATION OF CONSENT DECREE

17 MVC 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 Council
19 Bureau, Disciplinary Action Reporting System; and such other national databases as required
20 by law. It is also understood that any meeting during which the BOARD considers and
21 accepts or rejects this Consent Decree is open to the public and that the minutes of the
22 BOARD meeting are a public document, available for inspection by any person so requesting.

23 INDEMNIFICATION

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

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

5 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

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

13 1. MVC held a valid license to operate a crematory on the date of the alleged
14 violation, and continues to hold a valid license to operate a crematory through the present
15 day.

16 2. The BOARD inspector conducted an inspection of the crematory at 435 Stoker
17 Avenue on August 15, 2017.

18 3. The crematory log included the initials of employee M.F. as completing
19 cremations and processing remains.

20 4. Employee with initials M.F. had not completed a crematory operator training
21 approved by the Board on the date of the inspection.

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

24 6. NRS 642.5174(12) states that unprofessional conduct includes violation of any
25 state law or municipal or county ordinance or regulation affecting the handling, custody, care
26 or transportation of dead human bodies, including, without limitation, chapters 440, 451 and
27 452 of NRS.

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1 7. NRS 451.635(2) states that the licensed operator of a crematory shall ensure
2 that any persons physically operating the crematory equipment have completed a crematory
3 certification program approved by the Board and maintain proof of completion of the program
4 at the site where the crematory equipment is located. Such proof of completion must be
5 made available to the Board upon request or as part of any inspection or investigation
6 conducted by the Board.

7 8. Sec. 10. of adopted LCB File No. R067-15 states that physically operating the
8 crematory equipment includes starting the crematory equipment, loading the chamber,
9 sweeping the chamber, and processing the remains including initial placement of the human
10 remains into temporary urns.

11 9. That pursuant to Nevada Revised Statute (NRS) 642.5175:

12 The following acts are grounds for which the Board may take disciplinary
13 action against a person who holds a license, permit, or certificate issued
14 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:

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

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

21 1. If the Board determines that a person who holds a license, permit
22 or certificate issued by the Board pursuant to this chapter or chapter
23 451 or 452 of NRS has committed any of the acts set forth in NRS
24 642.5175 the Board may:

- 25 (a) Refuse to renew the license or permit;
- 26 (b) Revoke the license or permit;
- 27 (c) Suspend the license or permit for a definite period or until
 further order of the Board;
- 28 (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.

11. MVC 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

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

1. Within thirty (30) days of the approval and execution of this Consent Decree, MVC shall pay three hundred eight and 72/100 dollars (\$308.72) in legal and investigative fees and five hundred dollars (\$500.00) 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 MVC.

b. In the event of default, MVC agrees that its crematory license shall be immediately suspended. The suspension of MVC's license 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, MVC shall submit written policies and procedures documenting a plan for ensuring that all staff who assist in cremations are trained in accordance with state law.

3. MVC 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 MVC to the BOARD in writing within seventy-two (72) hours.

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

4 **VIOLATION OF TERMS OF CONSENT DECREE**

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

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

13 **ACCEPTANCE BY THE BOARD**

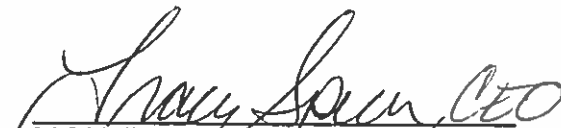
14 This Consent Decree will be presented and accepted by the BOARD with a
15 recommendation for approval from the Attorney General's Office at its next meeting.

16 **COMPLETE CONSENT DECREE**


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

20 DATED this 23rd day of January, 2018

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23 By:


MOUNTAIN VIEW CREMATORY
Legal Representative
Crematory License No. CRE3

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25
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27
28 By:


GENE LEVERTY, Esq.
Attorney for Respondent

1 The foregoing Consent Decree between MOUNTAIN VIEW CREMATORY, and the
2 STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No. FB17-25
3 is approved as to form and content.

4
5 DATED this 31 day of January, 2018

6
7 ADAM PAUL LAXALT
Attorney General

8
9 By: 


10 HENNA RASUL
11 Senior Deputy Attorney General
12 100 N. Carson Street
13 Carson City, Nevada 89701
14 (775) 684-1234
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ORDER

By a majority vote on the 20th day of February, 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 in the matter of Mountain View Crematory.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 20th day of February, 2018

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