

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

IN THE MATTER OF)

CAROLL HIGGINS, Funeral Director)

License No. FD20)

Respondent)

CASE NO. FB17-19

CONSENT DECREE

The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having jurisdiction over CAROLL HIGGINS ("HIGGINS"), Funeral Director License No. FD20 pursuant to NRS 642.5175; complaint against said license holder having been received alleging violations of the Nevada statutes and regulations controlling the practice of funeral directors 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

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

HIGGINS has freely and voluntarily entered into this Consent Decree, and is aware of his rights to contest the charges pending against him. These rights include representation by an attorney at his 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 him, the right to present evidence on his own behalf, the right to testify on his own behalf, the

1 right to receive written findings of fact and conclusions of law supporting the decision on
2 the merits of the complaint, and the right to obtain judicial review of the decision. All of
3 these rights are being voluntarily waived by HIGGINS in exchange for the BOARD'S
4 acceptance of this Consent Decree.

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

10 JURISDICTION

11 HIGGINS acknowledges that the BOARD has jurisdiction over him and the
12 conduct alleged in the Complaint. HIGGINS acknowledges that the BOARD has the legal
13 power and authority to take disciplinary action, including, but not limited to, the
14 revocation of his license to practice as a funeral director in Nevada.

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

18 PUBLICATION OF CONSENT DECREE

19 HIGGINS acknowledges that at the time this Consent Decree becomes effective, it
20 also becomes a public document and will be reported to the State of Nevada, Legislative
21 Council Bureau, Disciplinary Action Reporting System; and such other national
22 databases as required by law. It is also understood that any meeting during which the
23 BOARD considers and accepts or rejects this Consent Decree is open to the public and
24 that the minutes of the BOARD meeting are a public document, available for inspection
25 by any person so requesting.

26 INDEMNIFICATION

27 HIGGINS, for himself, his heirs, executors, administrators, successors and assigns,
28 hereby indemnifies and holds harmless the State of Nevada, the BOARD,

1 the Nevada Attorney General's office and each of its members, agents and employees in
2 their individual and representative capacities against any and all claims, suits, demands,
3 actions, debts, damages, costs, charges, and expenses, including court costs and attorney's
4 fees against any persons and entities as well as all liability, losses, and damages of any
5 nature whatsoever that the persons and entities named in this paragraph shall have or
6 may at any time sustain or suffer by reason of this investigation, this disciplinary action,
7 this settlement or its administration.

8 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

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

17 1. HIGGINS held a valid funeral director license on the date of the alleged
18 violations, and continues to hold a valid funeral director license through the present day.

19 2. HIGGINS was the approved managing funeral director of Truckee Meadows
20 Cremation and Burial Services ("TMCBS") on the date of the alleged violations.

21 3. An individual with the initials S.F. died on June 9, 2017 and TMCBS
22 handled the final arrangements for the cremation of S.F.

23 4. The cremated remains of S.F. were released to a family member who was not
24 authorized to claim the remains in accordance with the signed cremation authorization.

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

27 6. NRS 642.5174(12) states that unprofessional conduct includes violation of
28 any state law or municipal or county ordinance affecting the handling, custody, care or

1 transportation of dead human bodies, including, without limitation, chapters 440, 451
2 and 452 of NRS.

3 7. NRS 451.660 states that a crematory shall not cremate human remains until
4 the agent has signed an authorization, which states the name of the person authorized to
5 claim the cremated remains.

6 8. NRS 451.695 states that the agent who orders the cremation is responsible
7 for the disposition of the remains.

8 9. NRS 642.345 states that the funeral director is responsible for the proper
9 management of each funeral establishment that he or she manages.

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

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

- 14 a) Conviction of a crime involving moral turpitude
- 15 b) Unprofessional conduct
- 16 c) False or misleading advertising
- 17 d) Conviction of a felony relating to the practice of funeral
directors or funeral arrangers
- 18 e) Conviction of a misdemeanor that is related directly to the
19 business of a funeral establishment, direct cremation facility,
cemetery, or crematory.

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

21 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 451 or 452 of NRS has committed any of the acts set forth
in NRS 642.5175 the Board may:

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

1 f) Administer a public reprimand; or impose any combination of
2 disciplinary actions set forth in paragraphs (a) to (f), inclusive.

3 i. The Board shall not administer a private reprimand.

4 ii. An order that imposes discipline and the findings of
5 fact and conclusions of law supporting that order are
6 public records.

7 12. HIGGINS does not contest the allegations in the Complaint, and
8 acknowledges that as a consequence they are subject to discipline pursuant to the above
9 charges and statutory provisions.

10 STIPULATED ADJUDICATION

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

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

17 a. No grace period is permitted. Full payment not actually received by
18 the BOARD on or before the thirty days as indicated above, shall be
19 construed as an event of default by HIGGINS.

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

25 2. Within ninety (90) days of the approval and execution of this Consent
26 Decree, HIGGINS shall complete training, covering, at a minimum, identification of
27 cremated remains, chain of custody documentation, proper documentation for releasing
28 remains, policies and procedures related to record keeping, legal risks related to the
funeral and cremation industry, and laws pertaining to the funeral and cremation
industry. The training must be pre-approved by the Board Executive Director.

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

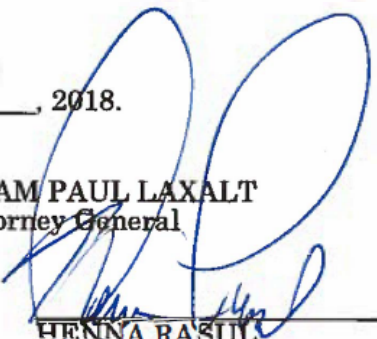
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The foregoing Consent Decree between CAROLL HIGGINS and the STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No. FB17-19 is approved as to form and content.

DATED this 15 day of MAY, 2018.

ADAM PAUL LAXALT
Attorney General

By:


HENNA RASUL
Senior Deputy Attorney General
100 N. Carson Street
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(775) 684-1234

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ORDER

By a majority vote on the 5th day of JUNE, 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 with CAROLL HIGGINS.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 5th day of JUNE, 2018.

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

