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BEFORE THE NEVADA STATE BOARD OF FUNERAL AND CEMETERY SERVICES

IN THE MATTER OF)
)
 EDWARD RODRIGUEZ, Funeral Director)
 License No. FD892)
 Respondent.)

CASE NO. FB18-08

CONSENT DECREE

The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having jurisdiction over EDWARD RODRIGUEZ ("RODRIGUEZ") Funeral Director License No. FD892 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

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

RODRIGUEZ 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 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 the decision. All of

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

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

8 JURISDICTION

9 RODRIGUEZ acknowledges that the BOARD has jurisdiction over the conduct
10 alleged in the Complaint. RODRIGUEZ acknowledges that the BOARD has the legal
11 power and authority to take disciplinary action, including, but not limited to, the
12 revocation of his funeral director license in Nevada.

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

16 PUBLICATION OF CONSENT DECREE

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

24 INDEMNIFICATION

25 RODRIGUEZ, for himself, his heirs, executors, administrators, successors and
26 assigns, hereby indemnifies and holds harmless the State of Nevada, the BOARD, the
27 Nevada Attorney General's office and each of its members, agents and employees in their
28 individual and representative capacities against any and all claims, suits, demands,

1 actions, debts, damages, costs, charges, and expenses, including court costs and attorney's
2 fees against any persons and entities as well as all liability, losses, and damages of any
3 nature whatsoever that the persons and entities named in this paragraph shall have or
4 may at any time sustain or suffer by reason of this investigation, this disciplinary action,
5 this settlement or its administration.

6 CONTINGENCY

7 By signing the Consent Decree, Respondent understands and agrees that she may
8 not withdraw her agreement or seek to rescind the Consent Decree.

9 The parties understand and agree that facsimile copies of this Consent Decree,
10 including facsimile signatures thereto, shall have the same force and effect as the
11 originals.

12 This Consent Decree is intended to be an integrated writing representing the
13 complete, final, and exclusive embodiment of their agreement. It supersedes any and all
14 prior or contemporaneous agreements, understandings, discussions, negotiations, and
15 commitments (written or oral).

16 STIPULATED FACTS AND CONCLUSIONS OF LAW

17 RODRIGUEZ understands the nature of the allegations under consideration by the
18 BOARD. He acknowledges that the conduct alleged in the Complaint, if proven,
19 constitutes violations of the Nevada Board of Funeral and Cemetery Services Practice Act
20 (NRS and NAC 642) and Nevada Revised Statutes Chapter 440. He further recognizes
21 that if this matter were to be taken to a disciplinary hearing before the BOARD, there is
22 a substantial likelihood that the following allegations could be proven as true, and that as
23 a result he would be subject to disciplinary action by the BOARD. As such, RODRIGUEZ
24 does not contest the following allegations:

25 1. RODRIGUEZ held a valid funeral director license on the date of the alleged
26 violation, and continues to hold a valid funeral director license through the present day.

27 2. RODRIGUEZ was the funeral director handling the disposition of a fetal
28 death which occurred on December 14, 2017.

1 3. RODRIGUEZ advised the crematory operator to perform the cremation and
2 advised staff that a permit was not required due to age of the decedent.

3 4. RODRIGUEZ contacted that BOARD and SOUTHERN NEVADA HEALTH
4 DISTRICT to self-report the error.

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

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

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

14 The following acts are grounds for which the Board may take
15 disciplinary action against a person who holds a license, permit, or
16 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:

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

25 8. That pursuant to Nevada Revised Statute (NRS) 642.5176:

26 If the Board determines that a person who holds a license, permit
27 or certificate issued by the Board pursuant to this chapter or
28 chapter 451 or 452 of NRS has committed any of the acts set forth
in NRS 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
28 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;

- 1 (e) Place the person on probation for a definite period
subject to any reasonable conditions imposed by the
Board;
 - 2 (f) Administer a public reprimand; or
 - 3 (g) Impose any combination of disciplinary actions set forth
in paragraphs (a) to (f), inclusive.
- 4 2. The Board shall not administer a private reprimand.
 - 5 3. An order that imposes discipline and the findings of fact and
conclusions of law supporting that order are public records.

6 9. That pursuant to Nevada Revised Statute (NRS) 622.400, the Board may
7 recover from a person reasonable attorney's fees and costs that are incurred by it as part
8 of its investigative, administrative and disciplinary proceedings against the person if the
9 regulatory body.

10 10. RODRIGUEZ does not contest the allegations in the Complaint, and
11 acknowledges that as a consequence he is subject to discipline pursuant to the above
12 charges and statutory provisions.

13 STIPULATED ADJUDICATION

14 RODRIGUEZ stipulates that pursuant to the authority of NRS 642.5176, the
15 BOARD will administer a PUBLIC REPRIMAND and place his Funeral Director License
16 on PROBATION for sixty (60) days. During the term of the probation, RODRIGUEZ
17 agrees to comply with the following conditions:

18 1. Within thirty (30) days of the approval and execution of this Consent Decree,
19 RODRIGUEZ shall pay legal and investigative fees in the amount of one hundred fifty-
20 four and 36/100 dollars (\$154.36).

21 a. No grace period is permitted. Full payment not actually received by
22 the BOARD on or before the thirty days as indicated above, shall be construed as an
23 event of default by RODRIGUEZ.

24 b. In the event of default, RODRIGUEZ agrees that his funeral director
25 license shall be immediately suspended. The suspension of RODRIGUEZ's license to
26 practice as a funeral director shall continue until the unpaid balance is paid in full and
27 the suspension is subject to being reported to all appropriate agencies.

28 2. Within sixty (60) days of the approval and execution of this Consent Decree,
RODRIGUEZ agrees to meet with a representative of Southern Nevada Health District

1 together with the BOARD Executive Director at a mutually agreeable time to review
2 proper procedures for obtaining permits and death certificates.

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

7 4. RODRIGUEZ agrees that he will be financially responsible for all
8 requirements of this Consent Decree and any reasonable financial assessments by the
9 Board for the cost of monitoring its compliance or carrying out the provisions of this
10 Consent Decree.

11 5. After sixty (60) days from the approval and execution of the Consent Decree,
12 RODRIGUEZ shall submit a written request to the BOARD for termination of the
13 probation. RODRIGUEZ understands that prior to terminating the probation he must
14 prove to the BOARD's satisfaction that he has complied with all the terms and conditions
15 of the Consent Decree. The BOARD may request additional information from
16 RODRIGUEZ to determine compliance with the terms of the Consent Decree and may
17 require that he meet with the Executive Director and BOARD counsel for further
18 evaluation of his compliance with the Consent Decree. If the BOARD does not request
19 additional information or initiate any further investigation, the probation shall be
20 automatically terminated.

21 **VIOLATION OF TERMS OF CONSENT DECREE**

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

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

1 alleged violation of the Consent Decree is taken to hearing and the facts which constitute
2 the 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 RODRIGUEZ. It may not be altered, amended, or modified without the express written
10 consent of the parties.

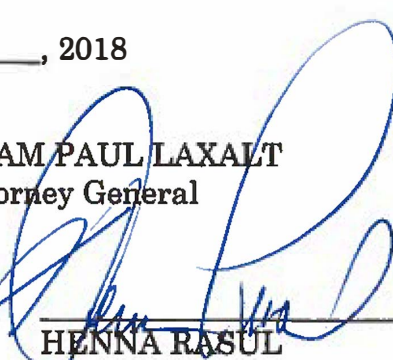
11 DATED this 18 day of APRIL, 2018

12
13 By: 
14 **EDWARD RODRIGUEZ**
Funeral Director License No. FD892

15 The foregoing Consent Decree between EDWARD RODRIGUEZ, and the STATE
16 OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No. FB18-08 is
17 approved as to form and content.

18
19 DATED this 15 day of MAY, 2018

20
21 **ADAM PAUL LAXALT**
Attorney General

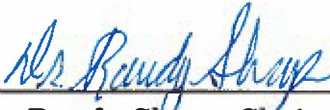
22
23 By: 
24 **HENNA RASUL**
25 Senior Deputy Attorney General
26 100 N. Carson Street
27 Carson City, Nevada 89701
28 (775) 684-1234

ORDER

1
2 By a majority vote on the 5th day of JUNE, 2018, the State of Nevada
3 Board of Funeral and Cemetery Services approved and adopted the terms and conditions
4 set forth in the attached Consent Decree in the matter of EDWARD RODRIGUEZ.

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

6 **DATED** this 5th day of JUNE, 2018

7
8 By: 
9 Dr. Randy Sharp, Chairman
for the Board of Funeral and Cemetery Services