

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

3 IN THE MATTER OF)

4)
5 EASTSIDE MEMORIAL PARK)
6 Certificate No. CEM4)

CASE NO. FB17-30

7 Respondent)
_____)

8 **CONSENT DECREE**

9 The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having
10 jurisdiction over EASTSIDE MEMORIAL PARK ("EMP") Cemetery Certificate No. CEM4
11 pursuant to NRS 642.5175; complaint against said certificate holder having been received
12 alleging violations of the Nevada statutes and regulations controlling the cemeteries; and
13 the parties being mutually desirous of settling the controversy between them relative to
14 the pending complaint;

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

17 **VOLUNTARY WAIVER OF RIGHTS**

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

21 EMP has freely and voluntarily entered into this Consent Decree, and is aware of
22 its rights to contest the charges. These rights include representation by an attorney at its
23 own expense, the right to file an answer in response to a formal complaint, the right to a
24 public hearing on any charges or allegations formally filed, the right to confront and
25 cross-examine witnesses called to testify against it, the right to present evidence on its
26 own behalf, the right to testify on its own behalf, the right to receive written findings of
27 fact and conclusions of law supporting the decision on the merits of the complaint, and
28

1 the right to obtain judicial review of the decision. All of these rights are being voluntarily
2 waived by EMP in exchange for the BOARD'S 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 her
5 consideration of the Consent Decree. EMP hereby waives any claim of bias or prejudice
6 based upon said consideration by any member of the BOARD in any subsequent
7 disciplinary hearing conducted by the BOARD.

8 JURISDICTION

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

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

16 PUBLICATION OF CONSENT DECREE

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

24 INDEMNIFICATION

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

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

6 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

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

15 1. EMP held a valid certificate to operate a cemetery on the date of the alleged
16 violation, and continues to hold a valid certificate to operate a cemetery through the
17 present day.

18 2. EMP has been in the process of seeking permitting of a funeral
19 establishment and created a new logo indicating that the cemetery performed funerals
20 and cremations.

21 3. EMP sent the new logo to Messenger, Inc. for printing and distributing of
22 annual calendars to a local church.

23 4. EMP did not hold a valid permit to operate a funeral establishment or
24 crematory at the time the logo was sent for printing in the calendar.

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 642.5175(3) False or misleading advertising as defined by NAC
28 642.170(1)(b) which states that false or misleading advertising includes, in addition to the

1 conduct set forth in NRS 642.490, advertising that states or implies that the holder of the
2 license or permit is willing to carry out a duty for which a license or permit is required
3 pursuant to chapter 642 of NRS if that duty is not authorized by the holder's license or
4 permit. For example, advertising in any form, including, without limitation, signs,
5 telephone books, newspapers, messages conveyed by telephone, television, electronic mail
6 and other electronic or photographic means, that states or implies that a proposed funeral
7 establishment is an operating funeral establishment before the Board has issued all
8 licenses and permits necessary for the operation of the establishment.

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

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

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

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

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

- 26 (a) Refuse to renew the license or permit;
- 27 (b) Revoke the license or permit;
- 28 (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.

- 29 2. The Board shall not administer a private reprimand.
- 30 3. An order that imposes discipline and the findings of fact and
conclusions of law supporting that order are public records.

1 11. EMP does not contest the allegations in the Complaint, and acknowledges
2 that as a consequence it is subject to discipline pursuant to the above charges and
3 statutory provisions.

4 **STIPULATED ADJUDICATION**

5 EMP stipulates that pursuant to the authority of NRS 642.5176, the BOARD will
6 administer a public REPRIMAND and EMP must comply with the following conditions:

7 1. Within thirty (30) days of the approval and execution of this Consent Decree,
8 EMP shall pay one hundred fifty four and 36/100 dollars (\$154.36) in legal and
9 investigative fees and five hundred dollars (\$500.00) in administrative fines.

10 a. No grace period is permitted. Full payment not actually received by
11 the BOARD on or before the thirty days as indicated above, shall be
12 construed as an event of default by EMP.

13 b. In the event of default, EMP agrees that its cemetery certificate shall
14 be immediately suspended. The suspension of EMP's certificate shall
15 continue until the unpaid balance is paid in full and the suspension is
16 subject to being reported to all appropriate agencies.

17 2. EMP shall cease and desist any further advertising for a funeral
18 establishment or crematory until such time that a permit is issued.

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

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

26 **VIOLATION OF TERMS OF CONSENT DECREE**

27 EMP understands that the BOARD may, upon thirty (30) days' notice to
28 respondent, convene a hearing for the limited purpose of establishing that it violated the

1 terms of this Consent Decree. If such a hearing results in a finding of a violation of this
2 Consent Decree, the BOARD may impose any penalty upon EMP authorized by NRS
3 642.5176.

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

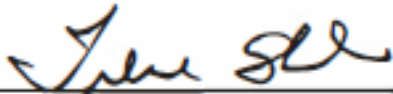
9 **ACCEPTANCE BY THE BOARD**

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

12 **COMPLETE CONSENT DECREE**

13 This Consent Decree embodies the entire agreement between the BOARD and
14 EMP. It may not be altered, amended, or modified without the express written consent of
15 the parties.

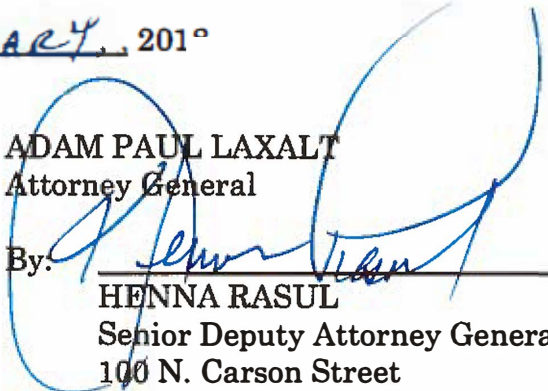
16 DATED this 5 day of Feb, 2018

17 By: 
18 EASTSIDE MEMORIAL PARK
19 Legal Representative
20 Cemetery Certificate No. CEM4

19 The foregoing Consent Decree between EASTSIDE MEMORIAL PARK, and the
20 STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No.
21 FB17-30 is approved as to form and content.

22 DATED this 12 day of FEBRUARY, 201⁸

23
24 ADAM PAUL LAXALT
25 Attorney General


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

ORDER

1
2 By a majority vote on the 20th day of February, 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 with Eastside Memorial Park.

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

6 **DATED this 20th day of February, 2018**

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