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

4 IN THE MATTER OF  
5 LEE FUNERAL HOME and CREMATION  
6 SERVICES,  
7 Establishment Permit No. EST2  
8 Respondent.

Case No: FB15-03

9 **CONSENT DECREE**

10 The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having  
11 jurisdiction over permit holder LEE FUNERAL HOME and CREMATION SERVICES  
12 ("LFHCS"), pursuant to NRS 642.470; complaint against said permit holder alleging violations  
13 of the Nevada statutes and regulations controlling the practice of funeral establishments; and  
14 the parties being mutually desirous of settling the controversy between them relative to the  
15 pending complaint;

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

18 **VOLUNTARY WAIVER OF RIGHTS**

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

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

1 and the right to obtain judicial review of the decision. All of these rights are being voluntarily  
2 waived by LFHCS 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 will  
4 be disqualified from further hearing of this matter, by reason of his or her consideration of the  
5 Consent Decree and LFHCS 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 LFHCS acknowledges that the BOARD has jurisdiction over it and the conduct alleged  
10 in the Complaint. LFHCS acknowledges that the BOARD has the legal power and authority to  
11 take disciplinary action, including, but not limited to, the revocation of its permit to operate a  
12 funeral establishment in Nevada.

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

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

5 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

6 LFHCS understands the nature of the allegations under consideration by the BOARD.  
7 It 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 could  
11 be proven as true, and that as a result it would be subject to disciplinary action by the  
12 BOARD. As such, LFHCS does not contest the following allegations:

13 1. LFHCS held a valid permit to operate a funeral establishment on the date of the  
14 alleged violations, and continues to hold a valid establishment permit from October 2, 2002,  
15 through the present day.

16 2. The BOARD conducted an inspection of LFHCS on February 12, 2015.

17 3. The inspector found a bucket adjacent to the cremator containing ashes  
18 comingled with metal folder fasteners.

19 4. An employee of the location stated that the establishment used the retort to burn  
20 documents and the bucket contained ashes from burning recent documents.

21 5. NRS 642.480(11) states that unprofessional conduct includes violation of any  
22 provision of this chapter, any regulation adopted pursuant thereto or any order of the Board.

23 6. NRS 642.480(12) states that unprofessional conduct includes violation of any  
24 state law or municipal or county ordinance or regulation affecting the handling, custody, care  
25 or transportation of dead human bodies.

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1           7.     NRS 451.680 states that the space within a crematory where cremation takes  
2 place must be enclosed and must not be used for any other purpose than the cremation of  
3 human remains.

4           8.     That pursuant to Nevada Revised Statute (NRS) 642.470:

5                   The following acts are grounds for which the Board may take  
6 disciplinary action against a person who holds a funeral director's  
7 license, a permit to operate a funeral establishment or a license to  
8 conduct direct cremations or immediate burials, or may refuse to  
9 issue such a license or permit to an applicant therefor:

- 10                   1. Conviction of a crime involving moral turpitude.
- 11                   2. Unprofessional conduct.
- 12                   3. False or misleading advertising.
- 13                   4. Conviction of a felony relating to the practice of funeral  
14 directors.
- 15                   5. Conviction of a misdemeanor that is related directly to  
16 the business of a funeral establishment.

17           9.     That pursuant to Nevada Revised Statute (NRS) 642.473:

18                   If the Board determines that a person who holds a funeral  
19 director's license, a permit to operate a funeral establishment or a  
20 license to conduct direct cremations or immediate burials has  
21 committed any of the acts set forth in NRS 642.470, the Board  
22 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  
26 until further order of the Board;
- 27                   (d) Impose a fine of not more than \$5,000 for each act that  
28 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.

          10.    LFHCS does not contest the allegations and acknowledges that as a  
consequence it is subject to discipline pursuant to the above charges and statutory provisions.



1 STIPULATED ADJUDICATION

2 LFHCS stipulates that pursuant to the authority of NRS 642.473, the BOARD will  
3 administer a public reprimand. In addition, LFHCS agrees to comply with the following  
4 conditions:

5 1. Within thirty (30) days of the approval and execution of this Consent Decree,  
6 LFHCS shall pay three hundred fifty six dollars (\$356.00) in legal and investigative fees and  
7 five hundred dollars (\$500.00) in administrative fines.

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

11 b. In the event of default, LFHCS agrees that its establishment permit shall  
12 be immediately suspended. The suspension of LFHCS's permit to operate a funeral  
13 establishment shall continue until the unpaid balance is paid in full and the suspension is  
14 subject to being reported to all appropriate agencies.

15 c. LFHCS acknowledges that the BOARD has the legal power and authority  
16 to take action against it, including instituting debt collection actions for unpaid monetary  
17 assessments in this case.

18 2. LFHCS shall obey all federal, state and local laws, and orders of the BOARD,  
19 which are not inconsistent with this Consent Decree, pertaining to the practice as a funeral  
20 establishment in this State. From the date of execution of this Consent Decree until LFHCS  
21 satisfies all of the terms of this Stipulated Adjudication section, LFHCS shall report any and all  
22 violations to the BOARD in writing within seventy-two (72) hours.

23 3. LFHCS agrees that he will be financially responsible for all requirements of this  
24 Consent Decree, including the cost of any reasonable financial assessments by the Board for  
25 the Cost of monitoring its compliance or carrying out the provisions of this Consent Decree  
26 upon a determination of non-compliance with the provisions of this Consent Decree.


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1 COMPLETE CONSENT DECREE

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

5 DATED this 25<sup>th</sup> day of September, 2015

6  
7 By:   
8 LEE FUNERAL HOME and CREMATION SERVICES  
9 Legal Representative/Owner  
License No. EST2

10 The foregoing Consent Decree between LEE FUNERAL HOME and CREMATION  
11 SERVICES and the STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in  
12 Case No. FB15-03 is approved as to form and content.

13 DATED this 5 day of October, 2015

14  
15 ADAM PAUL LAXALT  
16 Attorney General

17  
18 By:   
19 HENNA RASUL  
20 Senior Deputy Attorney General  
21 100 N. Carson Street  
22 Carson City, Nevada 89701  
23 (775) 684-1234

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*Counsel to the State of Nevada  
Board of Funeral and Cemetery  
Services*

**ORDER**

By a majority vote on the 13<sup>th</sup> day of October, 2015, 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 LFHCS, License No. EST2.

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

**DATED this 13<sup>th</sup> day of October, 2015**

By: Wayne G. Fazzino  
WAYNE FAZZINO, Chair  
Board of Funeral and Cemetery Services