

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

3 IN THE MATTER OF

Case No: FB15-04

4 PAHURUMP FAMILY MORTUARY, LLC  
5 Establishment Permit No. EST56

6 Respondent.

7  
8 **CONSENT DECREE**

9 The State of Nevada BOARD of Funeral and Cemetery Services ("BOARD") having  
10 jurisdiction over licensee PAHRUMP FAMILY MORTUARY LLC ("PFM"), pursuant to NRS  
11 642.470; complaint against said permit holder alleging violations of the Nevada statutes and  
12 regulations controlling the practice of funeral directors; and the parties being mutually desirous  
13 of settling the controversy between them relative to the pending complaint;

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

16 **VOLUNTARY WAIVER OF RIGHTS**

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

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

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

#### 6 JURISDICTION

7 PFM acknowledges that the BOARD has jurisdiction over it and the conduct alleged in  
8 the Complaint. PFM acknowledges that the BOARD has the legal power and authority to take  
9 disciplinary action, including, but not limited to, the revocation of its permit to operate a funeral  
10 establishment in Nevada.

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

#### 14 PUBLICATION OF CONSENT DECREE

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

#### 21 INDEMNIFICATION

22 PFM, for itself, its heirs, executors, administrators, successors and assigns, hereby  
23 indemnifies and holds harmless the State of Nevada, the BOARD, the Nevada Attorney  
24 General's office and each of their members, agents and employees in their individual and  
25 representative capacities against any and all claims, suits, demands, actions, debts,  
26 damages, costs, charges, and expenses, including court costs and attorney's fees against any  
27 persons, entities, as well as all liability, losses, and damages of any nature whatsoever that  
28 the persons and entities named in this paragraph shall have or may at any time sustain or

1 suffer by reason of this investigation, this disciplinary action, this settlement or its  
2 administration.

3 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

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

11 1. PFM held a valid permit to operate a funeral establishment on the date of the  
12 alleged violations and continues to hold a valid permit through the present day.

13 2. The BOARD conducted an inspection of "PFM" on February 12, 2015.

14 3. An employee indicated that only bottoms of the cremation containers were used  
15 during cremation.

16 4. It is assumed that consumers purchased cremations that included a full  
17 container and only half of the container was provided to the customer.

18 5. The same employee present during the inspection told the inspector that the  
19 crematory equipment is used to burn medical waste.

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

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

25 8. NRS 451.670(2)(b) states that the container used for cremation must cover the  
26 human remains completely when closed.

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1           9.     NRS 451.615 defines a container as a vessel, whether or not a casket, in which  
2 remains are placed for cremation.

3           10.    NRS 451.680 states that the crematory may not be used for any other purpose  
4 than the cremation of human remains.

5           11.    That pursuant to Nevada Revised Statute (NRS) 642.470:

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

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

18           12.    That pursuant to Nevada Revised Statute (NRS) 642.473:

19           1. If the Board determines that a person who holds a funeral  
20 director's license, a permit to operate a funeral establishment or a  
21 license to conduct direct cremations or immediate burials has  
22 committed any of the acts set forth in NRS 642.470, 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  
26 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.

          13.    PFM 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 PFM stipulates that pursuant to the authority of NRS 642.473, its establishment permit  
3 number EST56 shall be placed on probation for one (1) year and subject to a public  
4 reprimand. During the term of probation, PFM agrees to comply with the following conditions:

5 1. Within thirty (30) days of the approval and execution of this Consent Decree,  
6 PFM shall pay two hundred ninety dollars (\$290.00) in legal and investigative fees, three  
7 thousand dollars (\$3,000.00) in administrative fines and future inspection costs allowable by  
8 paragraph four (4) of this agreement in an amount not to exceed one thousand dollars  
9 (\$1,000.00).

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

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

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

20 2. PFM must submit to quarterly inspections during the probationary period.

21 3. PFM shall obey all federal, state and local laws, and orders of the BOARD,  
22 which are not inconsistent with this Consent Decree, pertaining to the operation of an  
23 establishment in this State. From the date of execution of this Consent Decree until PFM  
24 satisfies the payment requirements of subsection 1 of this Stipulated Adjudication section,  
25 PFM shall report any and all violations to the BOARD in writing within seventy-two (72) hours.

26 4. PFM agrees that it will be financially responsible for all requirements of this  
27 Consent Decree, including the cost of any reasonable financial assessments by the BOARD  
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1 for the cost of monitoring its compliance or carrying out the provisions of this Consent Decree  
2 upon a determination of non-compliance with the provisions of this Consent Decree.

3 5. After a minimum of one (1) year, PFM may apply to the BOARD for termination  
4 of its probation and full reinstatement of its establishment permit number EST56. PFM  
5 understands that prior to terminating its probation and full reinstatement of its permit it must  
6 prove to the BOARD's satisfaction that it has complied with all the terms and conditions of its  
7 Consent Decree. PFM shall submit a written request to the BOARD for termination of its  
8 probation. Upon receipt of this request, the BOARD may request additional information from  
9 PFM to determine its compliance with the Consent Decree. Upon establishing PFM has met  
10 all of the requirements of the Consent Decree, its legal owner/representative shall meet with  
11 the Chair of the BOARD or his/her designee, the Executive Director and BOARD counsel for  
12 evaluation of its compliance with the Consent Decree and for their recommendation of  
13 termination of probation, full reinstatement, or additional disciplinary action at a separate  
14 hearing before the BOARD.

15 **VIOLATION OF TERMS OF CONSENT DECREE**

16 PFM understands that the BOARD may, upon thirty (30) days' notice to PFM, convene  
17 a hearing for the limited purpose of establishing that it violated the terms of this Consent  
18 Decree. If such a hearing results in a finding of a violation of this Consent Decree, the  
19 BOARD may impose any penalty upon PFM authorized by NRS 642.473 including, but not  
20 limited to, revocation of its permit to operate a funeral establishment in the State of Nevada.

21 PFM agrees to waive its right to appeal the substantive legal basis of the original  
22 disciplinary action, which is the basis for this Consent Decree. In the event an alleged  
23 violation of the Consent Decree is taken to hearing and the facts which constitute the violation  
24 are determined to be not proven, no disciplinary action shall be taken by the BOARD.

25 **ACCEPTANCE BY THE BOARD**


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

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1 COMPLETE CONSENT DECREE

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

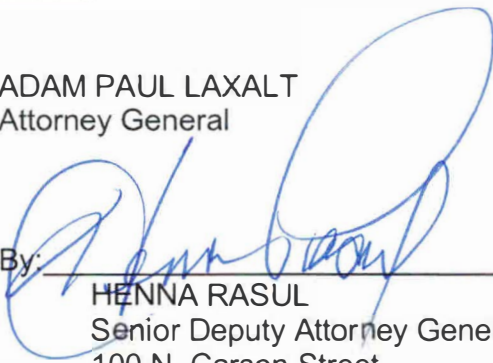
4 DATED this 30<sup>TH</sup> day of OCTOBER, 2015.

5  
6 By:   
7 PAHRUMP FAMILY MORTUARY, LLC  
8 Legal Representative/Owner  
9 Permit No. EST56

10 The foregoing Consent Decree between PFM and the STATE OF NEVADA FUNERAL  
11 AND CEMETERY SERVICES BOARD in Case No. FB15-04 is approved as to form and  
12 content.

13 DATED this 6 day of NOVEMBER 2015.

14 ADAM PAUL LAXALT  
15 Attorney General

16  
17 By:   
18 HENNA RASUL  
19 Senior Deputy Attorney General  
20 100 N. Carson Street  
21 Carson City, Nevada 89701  
22 (775) 684-1234  
23 Counsel to the State of Nevada  
24 Board of Funeral and Cemetery  
25 Services  
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ORDER

By a majority vote on the 15<sup>TH</sup> day of December, 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 PFM, License No. EST56.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 15<sup>th</sup> day of December, 2015.

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