

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

3 IN THE MATTER OF)
4 TIMOTHY M. WILMETH,)
5 Funeral Director License No.)
6 FD827)
7 RESPONDENT.)

CASE NO. FB15-04

8 CONSENT DECREE

9 The State of Nevada BOARD of Funeral and Cemetery Services ("BOARD") having
10 jurisdiction over licensee TIMOTHY M. WILMETH ("WILMETH"), pursuant to NRS 642.470;
11 complaint against said licensee alleging violations of the Nevada statutes and regulations
12 controlling the practice of funeral directors; and the parties being mutually desirous of settling
13 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 WILMETH is aware of, understands, and has been advised of the effect of this
18 Consent Decree, which he has carefully read and fully acknowledged. WILMETH has had
19 the opportunity to consult with competent counsel of his choice.

20 WILMETH has freely and voluntarily entered into this Consent Decree, and he is aware
21 of his rights to contest the charges pending against him. These rights include representation
22 by an attorney at his own expense, the right to file an answer in response to a formal
23 complaint, the right to a public hearing on any charges or allegations formally filed, the right to
24 confront and cross-examine witnesses called to testify against him, the right to present
25 evidence on his own behalf, the right to testify on his 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 WILMETH in exchange for the BOARD'S acceptance of this Consent Decree.

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

7 JURISDICTION

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

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

15 PUBLICATION OF CONSENT DECREE

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

22 INDEMNIFICATION

23 WILMETH, for himself, his heirs, executors, administrators, successors and assigns,
24 hereby indemnifies and holds harmless the State of Nevada, the BOARD, the Nevada
25 Attorney General's office and each of their members, agents and employees in their individual
26 and representative capacities against any and all claims, suits, demands, actions, debts,
27 damages, costs, charges, and expenses, including court costs and attorney's fees against
28 any persons, entities, as well as all liability, losses, and damages of any nature whatsoever
that 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 WILMETH understands the nature of the allegations under consideration by the
5 BOARD. He acknowledges that the conduct alleged in the Complaint, if proven, constitutes
6 violations of the Nevada Board of Funeral and Cemetery Services Practice Act (NRS and
7 NAC 642) and NRS Chapter 451. He further recognizes that if this matter were to be taken to
8 a disciplinary hearing before the BOARD, there is a substantial likelihood that the following
9 allegations could be proven as true, and that as a result he would be subject to disciplinary
10 action by the BOARD. As such, WILMETH does not contest the following allegations:

11 1. WILMETH held a valid Funeral Director license on the date of the alleged
12 violations and continues to hold a valid Funeral Director license through the present day.

13 2. WILMETH was the approved managing Funeral Director of Pahrump Family
14 Mortuary ("PFM") during all times relevant to the alleged violations regarding this complaint.

15 3. The BOARD conducted an inspection of PFM on February 12, 2015.

16 4. An employee indicated that only bottoms of the cremation containers were used
17 during cremation.

18 5. It is assumed that consumers purchased cremations that included a full
19 container and only half of the container was provided to the customer.

20 6. The same employee present during the inspection told the inspector that the
21 crematory equipment is used to burn medical waste.

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

24 ///

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

28

1 9. NRS 642.345(3) states that a funeral director is responsible for the proper
2 management of each funeral establishment of which the funeral director is the manager.

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

7 12. NRS 451.615 defines a container as a vessel, whether or not a casket, in which
8 remains are placed for cremation.

9 13. That pursuant to Nevada Revised Statute (NRS) 642.470:

10 The following acts are grounds for which the Board may take
11 disciplinary action against a person who holds a funeral director's
12 license, a permit to operate a funeral establishment or a license to
conduct direct cremations or immediate burials, or may refuse to
issue such a license or permit 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
directors.
5. Conviction of a misdemeanor that is related directly to the
business of a funeral establishment.

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

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

- 20 (a) Refuse to renew the license or permit;
- 21 (b) Revoke the license or permit;
- 22 (c) Suspend the license or permit for a definite period or until
further order of the Board;
- 23 (d) Impose a fine of not more than \$5,000 for each act that
constitutes a ground for disciplinary action;
- 24 (e) Place the person on probation for a definite period subject
to any reasonable conditions imposed by the Board;
- 25 (f) Administer a public reprimand; or
- 26 (g) Impose any combination of disciplinary actions set forth in
paragraphs (a) to (f), inclusive.
- 27 2. The Board shall not administer a private reprimand.
- 28 3. An order that imposes discipline and the findings of fact and
conclusions of law supporting that order are public records.

1 satisfies the payment requirements of subsection 1 of this Stipulated Adjudication section,
2 WILMETH shall report any and all violations to the BOARD in writing within seventy-two (72)
3 hours.

4 4. From the date of execution of this Consent Decree until WILMETH satisfies all
5 of the terms of this Stipulated Adjudication section, WILMETH is required to notify the
6 BOARD in writing within seventy-two (72) hours after any change in employment as a funeral
7 director, including self-employment, consulting or volunteering. Any notification of termination
8 or change of employment shall contain a full explanation of the circumstances surrounding it.

9 5. WILMETH agrees that he will be financially responsible for all requirements of
10 this Consent Decree, including the cost of any reasonable financial assessments by the
11 BOARD for the Cost of monitoring his compliance or carrying out the provisions of this
12 Consent Decree upon a determination of non-compliance with the provisions of this Consent
13 Decree.

14 6. After a minimum of one (1) year, WILMETH may apply to the BOARD for
15 termination of his probation and full reinstatement of his funeral director license number
16 FD810. WILMETH understands that prior to terminating his probation and full reinstatement
17 of his license he must prove to the BOARD's satisfaction that he has complied with all the
18 terms and conditions of his Consent Decree. WILMETH shall submit a written request to the
19 BOARD for termination of his probation. Upon receipt of this request, the BOARD may
20 request additional information from WILMETH to determine his compliance with the Consent
21 Decree. Upon establishing WILMETH has met all of the requirements of the Consent Decree,
22 he shall meet with the Chair of the BOARD or his/her designee, the Executive Director and
23 BOARD counsel for evaluation of his compliance with the Consent Decree and for their
24 recommendation of termination of probation, full reinstatement, or additional disciplinary
25 action at a separate hearing before the BOARD.

1 **VIOLATION OF TERMS OF CONSENT DECREE**

2 WILMETH understands that the BOARD may, upon thirty (30) days' notice to
3 WILMETH, convene a hearing for the limited purpose of establishing that he violated the
4 terms of this Consent Decree. If such a hearing results in a finding of a violation of this
5 Consent Decree, the BOARD may impose any penalty upon WILMETH authorized by NRS
6 642.473 including, but not limited to, revocation of his license to practice as a funeral director
7 in the State of Nevada.

8 WILMETH agrees to waive his right to appeal the substantive legal basis of the original
9 disciplinary action, which is the basis for this Consent Decree. In the event an alleged
10 violation of the Consent Decree is taken to hearing and the facts which constitute the violation
11 are determined to be not proven, no disciplinary action shall be taken by the BOARD.

12 **ACCEPTANCE BY THE BOARD**

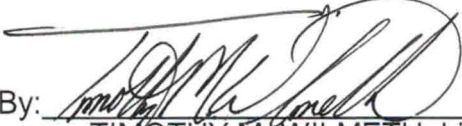
13 This Consent Decree will be presented and accepted by the BOARD with a
14 recommendation for approval from the Attorney General's Office at its next meeting.

15 ///
16 ///
17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 **COMPLETE CONSENT DECREE**

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

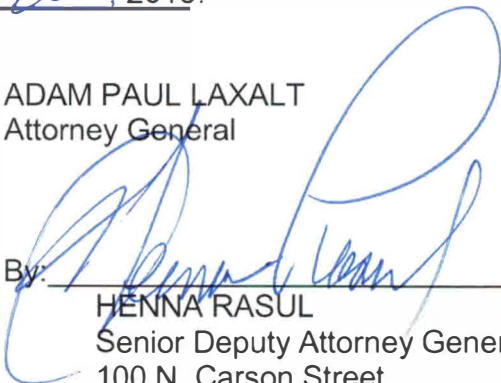
5 DATED this 30TH day of OCTOBER, 2015.

6 
7 By: _____
8 TIMOTHY M. WILMETH, License No. FD827

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

12 DATED this 6 day of NOVEMBER, 2015.

13
14 ADAM PAUL LAXALT
Attorney General

15
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
26
27
28

ORDER

By a majority vote on the 15TH 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 TIMOTHY M. WILMETH, License No. FD827.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 15TH day of December, 2015.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RECEIVED

NOV 05 2015

ATTORNEY GENERAL
MAIL ROOM