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

4 IN THE MATTER OF

Case No: FB15-05

5 LA PALOMA FUNERAL SERVICES, LLC
6 Establishment Permit No. EST79

7 Respondent.

8 **CONSENT DECREE**

9 The State of Nevada BOARD of Funeral and Cemetery Services ("BOARD") having
10 jurisdiction over licensee LA PALOMA FUNERAL SERVICES, LLC ("LPFS"), 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 LPFS is aware of, understands, and has been advised of the effect of this Consent
18 Decree, which it has carefully read and fully acknowledged. LPFS has had the opportunity to
19 consult with competent counsel of its choice.

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

11 LPFS 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 LPFS 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 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

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

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

3 2. The BOARD conducted an inspection of "LPFS" on February 9, 2015.

4 3. The inspector found that there were no lids to the cremation containers on site,
5 and that the funeral director stated that the establishment did not routinely use them during
6 cremation.

7 4. The approved managing funeral director told the inspector that the crematory
8 equipment is used to burn red bag waste.

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

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

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

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

18 9. NRS 451.680 states that the crematory may not be used for any other purpose
19 than the cremation of human remains.

20 10. That pursuant to Nevada Revised Statute (NRS) 642.470:

21 The following acts are grounds for which the Board may take
22 disciplinary action against a person who holds a funeral director's
23 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:

- 24 1. Conviction of a crime involving moral turpitude.
- 25 2. Unprofessional conduct.
- 26 3. False or misleading advertising.
- 27 4. Conviction of a felony relating to the practice of funeral
directors.
- 28 5. Conviction of a misdemeanor that is related directly to the
business of a funeral establishment.

1 11. That pursuant to Nevada Revised Statute (NRS) 642.473:

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

- 6 (a) Refuse to renew the license or permit;
7 (b) Revoke the license or permit;
8 (c) Suspend the license or permit for a definite period or until
9 further order of the Board;
10 (d) Impose a fine of not more than \$5,000 for each act that
11 constitutes a ground for disciplinary action;
12 (e) Place the person on probation for a definite period subject
13 to any reasonable conditions imposed by the Board;
14 (f) Administer a public reprimand; or
15 (g) Impose any combination of disciplinary actions set forth in
16 paragraphs (a) to (f), inclusive.

17 2. The Board shall not administer a private reprimand.

18 3. An order that imposes discipline and the findings of fact and
19 conclusions of law supporting that order are public records.

20 12. LPFS does not contest the allegations and acknowledges that as a
21 consequence it is subject to discipline pursuant to the above charges and statutory provisions.

22 **STIPULATED ADJUDICATION**

23 LPFS stipulates that pursuant to the authority of NRS 642.473, its establishment permit
24 number EST79 shall be placed on probation for one (1) year. During the term of probation,
25 LPFS agrees to comply with the following conditions:

26 1. Within thirty (30) days of the approval and execution of this Consent Decree,
27 LPFS shall pay three hundred nineteen dollars (\$319.00) in legal and investigative fees, three
28 thousand dollars (\$3,000.00) in administrative fines and future inspection costs allowable by
paragraph four (4) of this agreement in an amount not to exceed one thousand dollars
(\$1,000.00).

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

1 b. In the event of default, LPFS agrees that its establishment permit shall be
2 immediately suspended. The suspension of LPFS' permit shall continue until the
3 unpaid balance is paid in full and the suspension is subject to being reported to all
4 appropriate agencies.

5 c. LPFS acknowledges that the BOARD has the legal power and authority to
6 take action against it, including instituting debt collection actions for unpaid monetary
7 assessments in this case.

8 2. LPFS must submit to quarterly inspections during the probationary period.

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

14 4. LPFS agrees that it will be financially responsible for all requirements of this
15 Consent Decree, including the cost of any reasonable financial assessments by the BOARD
16 for the cost of monitoring its compliance or carrying out the provisions of this Consent Decree
17 upon a determination of non-compliance with the provisions of this Consent Decree.

18 5. After a minimum of one (1) year, LPFS may apply to the BOARD for termination
19 of its probation and full reinstatement of its establishment permit number EST79. LPFS
20 understands that prior to terminating its probation and full reinstatement of its permit it must
21 prove to the BOARD's satisfaction that it has complied with all the terms and conditions of its
22 Consent Decree. LPFS shall submit a written request to the BOARD for termination of its
23 probation. Upon receipt of this request, the BOARD may request additional information from
24 LPFS to determine its compliance with the Consent Decree. Upon establishing LPFS has met
25 all of the requirements of the Consent Decree, its legal owner/representative shall meet with
26 the Chair of the BOARD or his/her designee, the Executive Director and BOARD counsel for
27 evaluation of its compliance with the Consent Decree and for their recommendation of
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1 termination of probation, full reinstatement, or additional disciplinary action at a separate
2 hearing before the BOARD.

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4 **VIOLATION OF TERMS OF CONSENT DECREE**

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

11 LPFS agrees to waive its right to appeal the substantive legal basis of the original
12 disciplinary action, which is the basis for this Consent Decree. In the event an alleged

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14 violation of the Consent Decree is taken to hearing and the facts which constitute the violation
15 are determined to be not proven, no disciplinary action shall be taken by the BOARD.

16 **ACCEPTANCE BY THE BOARD**

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

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COMPLETE CONSENT DECREE

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

DATED this 15 day of sep., 2015.

By: Ryan Bowen
LA PALOMA FUNERAL SERVICES, LLP
Legal Representative/Owner
Permit No. EST79

The foregoing Consent Decree between LPFS and the STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No. FB15-05 is approved as to form and content.

DATED this 17 day of SEPTEMBER, 2015.

ADAM PAUL LAXALT
Attorney General

By: Henna Rasul
HENNA RASUL
Senior Deputy Attorney General
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(775) 684-1234
Counsel to the State of Nevada
Board of Funeral and Cemetery
Services

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ORDER

By a majority vote on the 13TH 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 LPFS, License No. EST79.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 13TH day of October, 2015.

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

RECEIVED

SEP 17 2015

ATTORNEY GENERAL
MAILROOM