

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

3 IN THE MATTER OF)

4 Valley Memorial Funeral Home, LLC)
5 D.B.A. VALLEY FUNERAL HOME)

6 Establishment Permit #EST71)

7 RESPONDENT.)
8

CASE NO. FB15-13

9 CONSENT DECREE

10 The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having
11 jurisdiction over permit holder VALLEY FUNERAL HOME ("VFH"), pursuant to NRS 642.470;
12 complaint against said permit holder having been received alleging violations of the Nevada
13 statutes and regulations controlling the practice of operating funeral establishments; and the
14 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 VFH is aware of, understands, and has been advised of the effect of this Consent
20 Decree, which it has carefully read and fully acknowledged. VFH has had the opportunity to
21 consult with competent counsel of its choice.

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

13 VFH 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 VFH 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 VFH, 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 its members, agents and employees in their individual and
27 representative capacities against any and all claims, suits, demands, actions, debts,
28 damages, costs, charges, and expenses, including court costs and attorney's fees against

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

5 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

6 VFH understands the nature of the allegations under consideration by the BOARD. It
7 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), NRS
9 Chapter 440, and NRS Chapter 451. It further recognizes that if this matter were to be taken
10 to a disciplinary hearing before the BOARD, there is a substantial likelihood that the following
11 allegations could be proven as true, and that as a result it would be subject to disciplinary
12 action by the BOARD. As such, VFH does not contest the following allegations:

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

15 2. A complaint was prepared by the BOARD on December 1, 2015, as a result of
16 being contacted by Southern Nevada Health District regarding allegations pertaining to Valley
17 Cremation and Burial (VCB).

18 3. On December 7, 2015, the BOARD inspector reviewed a random sample of files
19 found at the VFH location as part of an investigation of VCB which were located at the funeral
20 establishment.

21 a. The sampling revealed files which did not contain cremation
22 authorizations nor an anatomical donation authorization.

23 b. Several files contained a statement of funeral goods and services for the
24 \$10 regulatory fee and death certificates, while other files did not contain any statement of
25 funeral goods and services.

26 c. Many of the files had unsigned or incomplete paperwork.

27 4. Based on an interview with the managing funeral director, Frank Zimmerman, on
28 January 26, 2016, and review of files, unlicensed individuals employed by VFH were meeting

1 with families to order the disposition of human remains and planning funeral services for
2 decedents.

3 a. During this interview, Mr. Zimmerman admitted that he was rarely
4 physically present at the funeral establishment and had very little knowledge of what occurred
5 at VFH.

6 b. Additionally, Mr. Zimmerman admitted that he is not actually signing the
7 death certificates and has shared his login and password with other unlicensed employees
8 who are signing the death certificates using his credentials.

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 642.480(18) states that unprofessional conduct includes unethical
15 practices contrary to the public interest as determined by the BOARD.

16 8. NRS 451.665(1) states that the funeral establishment shall keep a record of
17 each authorization received, the name of each person whose remains are received, the date
18 and time of receipt, a description of container in which received, the date of the cremation,
19 and the final disposition of the cremated remains.

20 9. NRS 440.480 states that the funeral director or person acting as the undertaker
21 shall state the facts required relative to the date and place of burial over his or her signature.

22 10. Section 6 of S.B. 286 states that a person shall not engage in the business of
23 funeral arranger unless the person is licensed as a funeral arranger by the BOARD.

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

25 The following acts are grounds for which the Board may take disciplinary
26 action against a person who holds a license, permit, or certificate issued
27 by the Board, or may refuse to issue such a license, permit or certificate
to an applicant therefor:

- 28
1. Conviction of a crime involving moral turpitude.
 2. Unprofessional conduct.

- 1 3. False or misleading advertising.
- 2 4. Conviction of a felony relating to the practice of funeral directors.
- 3 5. Conviction of a misdemeanor that is related directly to the business
of a funeral establishment.

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

5 If the Board determines that a person who holds a license, permit, or
6 certificate issued by the Board has committed any of the acts set forth
in NRS 642.470, the Board may:

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

16 13. VFH does not contest the allegations in the Complaint, and acknowledges that
17 as a consequence it is subject to discipline pursuant to the above charges and statutory
provisions.

18 **STIPULATED ADJUDICATION**

19 VFH stipulates that pursuant to the authority of NRS 642.473, the BOARD will impose
20 a revocation of VFH's establishment permit by the voluntary surrender by VFH of its permit to
21 the BOARD. Upon the surrender of the establishment permit, VFH agrees to comply with the
22 following conditions:

23 1. The revocation shall commence upon execution of this Consent Decree by the
24 presiding member of the BOARD. VFH, Valley Memorial Funeral Home, LLC or any
25 managing member of Valley Memorial Funeral Home, LLC may not apply for an
26 establishment permit in this State during the period this consent decree is in effect. After the
27 revocation has been in effect for a five-year time period, VFH may apply for re-instatement of
28 its establishment permit. If VFH re-applies for an establishment permit in this State, its

1 **ACCEPTANCE BY THE BOARD**

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

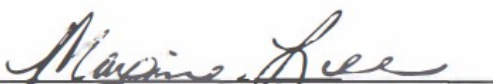
4 **COMPLETE CONSENT DECREE**

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

8 DATED this 7 day of March, 2016.

DATED this 4 day of March, 2016.

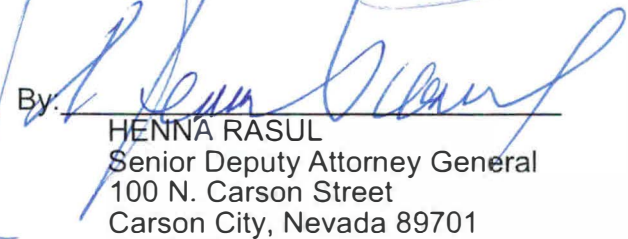
9
10 By: 
11 Geraldine Kirk-Hughes, Esq.
12 KIRK-HUGHES & ASSOCIATES
13 2551 South Fort Apache Rd, Ste #103
14 Las Vegas, NV 89117
(702) 233-8683

By: 
Maxine Lee, Co-Owner
VCB, Crematory License No. CRE71

15 The foregoing Consent Decree between VFH and the STATE OF NEVADA FUNERAL AND
16 CEMETERY SERVICES BOARD in Case No. FB15-13 is approved as to form and content.

17 DATED this 8 day of MARCH, 2016

18 ADAM PAUL LAXALT
19 Attorney General

20
21 By: 
22 HENNA RASUL
23 Senior Deputy Attorney General
24 100 N. Carson Street
25 Carson City, Nevada 89701
26 (775) 684-1234
27 Counsel to the State of Nevada
28 Board of Funeral and Cemetery
Services

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ORDER

By a majority vote on the 15TH day of March, 2016, 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 VFH, Establishment Permit No. 71.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 15TH day of March, 2016

By: Wayne A. Fazzino
Wayne Fazzino, Chair
for the Board of Funeral and Cemetery Services