

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

3 IN THE MATTER OF )

4 FRANK ZIMMERMAN, )  
5 Funeral Director License No.FD15 )

CASE NO. FB15-13

6 RESPONDENT. )  
7 \_\_\_\_\_ )

8 CONSENT DECREE

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

20 ZIMMERMAN has freely and voluntarily entered into this Consent Decree, and he is  
21 aware of his rights to contest the charges pending against him. These rights include  
22 representation by an attorney at his 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 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 ZIMMERMAN 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 ZIMMERMAN hereby waives any claim of bias or prejudice based upon  
4 said consideration by any member of the BOARD in any subsequent disciplinary hearing  
5 conducted by the BOARD.

#### 6 JURISDICTION

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

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

#### 14 PUBLICATION OF CONSENT DECREE

15 ZIMMERMAN acknowledges that at the time this Consent Decree becomes effective, it  
16 also becomes a public document and will be reported to the State of Nevada, Legislative  
17 Council Bureau, Disciplinary Action Reporting System; and such other national databases as  
18 required by law. It is also understood that any meeting during which the BOARD considers  
19 and 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 ZIMMERMAN, for himself, his heirs, executors, administrators, successors and  
23 assigns, hereby indemnifies and holds harmless the State of Nevada, the BOARD, the  
24 Nevada Attorney General's office and each of their members, agents and employees in their  
25 individual and representative capacities against any and all claims, suits, demands, actions,  
26 debts, damages, costs, charges, and expenses, including court costs and attorney's fees  
27 against any persons entities as well as all liability, losses, and damages of any nature  
28 whatsoever that the persons and entities named in this paragraph shall have or may at any

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

3 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

4 ZIMMERMAN 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, NRS 451 and NRS Chapter 440). He further recognizes that if this matter were to  
8 be taken to a disciplinary hearing before the BOARD, there is a substantial likelihood that the  
9 following allegations could be proven as true, and that as a result he would be subject to  
10 disciplinary action by the BOARD. As such, ZIMMERMAN does not contest the following  
11 allegations:

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

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

17 3. As part of that investigation, the BOARD conducted a site visit of Valley Funeral  
18 Home (VFH), of which ZIMMERMAN was the approved managing funeral director, on  
19 December 7, 2015, and January 26, 2016.

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

23 a. The sampling revealed files which did not contain either cremation  
24 authorizations or authorizations for anatomical donation.

25 b. Several files did not contain any statement of funeral goods and services.

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

27 5. Based on an interview with ZIMMERMAN on January 26, 2016, and review of  
28 files, unlicensed individuals employed by VFH were meeting with families to order the

1 disposition of human remains and planning funeral services for decedents.

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

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

7 6. NRS 642.345 states that the funeral director is responsible for the proper  
8 management of each funeral establishment of which the funeral director is the manager.

9 7. NRS 642.470(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 8. NRS 642.470(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 9. NRS 642.470(18) states that unprofessional conduct includes unethical  
15 practices contrary to the public interest as determined by the BOARD.

16 10. 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 11. 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 12. 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 13. 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 funeral director's license or a permit  
27 to operate a funeral establishment may refuse to issue such a license or  
28 permit to an applicant therefor:

1. Conviction of a crime involving moral turpitude.
2. Unprofessional conduct.
3. False or misleading advertising.

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.

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

If the Board determines that a person who holds a funeral director's license or a permit to operate a funeral establishment has committed any of the acts set forth in NRS 642.470, the Board may:

- (a) Refuse to renew the license or permit;
  - (b) Revoke the license or permit;
  - (c) Suspend the license or permit for a definite period or until further order of the Board;
  - (d) Impose a fine of not more than \$5,000 for each act that 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.

15. ZIMMERMAN does not contest the allegations in the Complaint, and acknowledges that as a consequence he is subject to discipline pursuant to the above charges and statutory provisions.

**STIPULATED ADJUDICATION**

ZIMMERMAN stipulates that pursuant to the authority of NRS 642.473, the BOARD will impose a revocation of ZIMMERMAN's FD license by the voluntary surrender by ZIMMERMAN of his license to the BOARD. Upon the surrender of the FD license, ZIMMERMAN agrees to comply with the following conditions:

1. The revocation shall commence upon execution of this Consent Decree by the presiding member of the BOARD. ZIMMERMAN may not apply for a funeral director license in this State during the period this consent decree is in effect. After the revocation has been in effect for a three-year time period, ZIMMERMAN may apply for re-instatement of his FD license. If ZIMMERMAN re-applies for a FD license in this State, he agrees to meet with the Chairman of the BOARD or his/her designee, the Executive Director and BOARD counsel and prove compliance with the Consent Decree and fitness for licensure.

1           2.     After his license is reinstated, ZIMMERMAN stipulates pursuant to the authority  
2 of NRS 642.473, the BOARD may impose a one (1) year period of probation upon his license  
3 to practice as a funeral director in the State of Nevada subject to the following terms and  
4 conditions:

5           a.     ZIMMERMAN shall obey all federal, state and local laws, insurance  
6 company policies or contracts and orders of the BOARD, which are not inconsistent with this  
7 Consent Decree, pertaining to the practice of funeral directing in this State. Any and all  
8 violations shall be reported by ZIMMERMAN to the BOARD in writing within seventy-two (72)  
9 hours.

10          b.     ZIMMERMAN is required to notify the BOARD in writing within seventy-  
11 two (72) hours after any change in funeral director employment. Any notification of  
12 termination shall contain a full explanation of the circumstances surrounding it.

13          c.     ZIMMERMAN shall notify all current and potential employers of any term  
14 or condition of probation which will affect his employment. ZIMMERMAN shall provide a copy  
15 of the consent decree to each employer during the length of probation. Such notification shall  
16 be signed by each employer. ZIMMERMAN shall submit, upon request by the BOARD or its  
17 designee, satisfactory evidence of compliance with this term of probation.

18                           **VIOLATION OF TERMS OF CONSENT DECREE**

19           ZIMMERMAN understands that the BOARD may, upon thirty (30) days' notice to  
20 ZIMMERMAN, convene a hearing for the limited purpose of establishing that he violated the  
21 terms of this Consent Decree. If such a hearing results in a finding of a violation of this  
22 Consent Decree, the BOARD may impose any penalty upon ZIMMERMAN authorized by  
23 NRS 642.473 including, but not limited to, revocation of his license to practice as a funeral  
24 director in the State of Nevada.

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

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  
6 FRANK ZIMMERMAN. It may not be altered, amended, or modified without the express  
7 written consent of the parties.

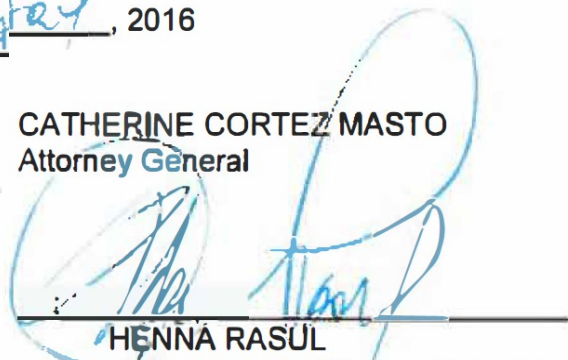
8 DATED this 22 day of Feb., 2016

9  
10 By: Frank Zimmerman  
11 FRANK ZIMMERMAN, License No. FD15

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

15 DATED this 29 day of February, 2016

16  
17 CATHERINE CORTEZ MASTO  
Attorney General



18  
19  
20 HENNA RASUL  
21 Senior Deputy Attorney General  
22 100 N. Carson Street  
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24 (775) 684-1234  
25 Counsel to the State of Nevada  
26 Board of Funeral and Cemetery  
27 Services  
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**ORDER**

By a majority vote on the 15<sup>TH</sup> 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 FRANK ZIMMERMAN, License No. FD15.

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

**DATED this 15<sup>TH</sup> day of MARCH, 2016**

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