

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

1
2
3 IN THE MATTER OF)
4)

5 HERITAGE MORTUARY, INC.)
6 Establishment Permit EST85)

7 Respondent.)

CASE NOS. FB17-23 and FB17-24

CONSENT DECREE

9
10 The State of Nevada Board of Funeral and Cemetery Services (“BOARD”) having
11 jurisdiction over HERITAGE MORTUARY, INC. (“HMI”), Funeral Establishment Permit
12 No. EST85; pursuant to NRS 642.5175; complaint against said license and permit holders
13 having received alleging violations of the Nevada statutes and regulations controlling the
14 practice of operating funeral establishments and operating crematories; and the parties
15 being mutually desirous of settling the controversy between them relative to the pending
16 complaint;

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

VOLUNTARY WAIVER OF RIGHTS

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

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

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

9 JURISDICTION

10 HMI acknowledges that the BOARD has jurisdiction over it and the conduct alleged
11 in the Complaint. HMI acknowledges that the BOARD has the legal power and authority
12 to take disciplinary action, including, but not limited to, the revocation of permits to operate
13 funeral establishments in Nevada.

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

17 PUBLICATION OF CONSENT DECREE

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

25 INDEMNIFICATION

26 HMI, for itself, its heirs, executors, administrators, successors and assigns, hereby
27 indemnify and hold harmless the State of Nevada, the BOARD, the Nevada Attorney
28 General's office and each of its members, agents and employees in their individual and

1 representative capacities against any and all claims, suits, demands, actions, debts,
2 damages, costs, charges, and expenses, including court costs and attorney's fees against
3 any persons entities as well as all liability, losses, and damages of any nature whatsoever
4 that the persons and entities named in this paragraph shall have or may at any time
5 sustain or suffer by reason of this investigation, this disciplinary action, this settlement or
6 its administration.

7 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

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

15 1. HMI held a valid permit to operate a funeral establishment at 3610 North
16 Rancho Drive, Las Vegas, Nevada 89130 on the date of the alleged violations, and
17 continues to hold a valid establishment permit through the present day.

18 2. A first complaint was received by the BOARD on or about September 5, 2017,
19 regarding decedent JLMT received by HMI on July 20, 2017.

20 a. JLMT's family planned and paid for funeral arrangements to transpire
21 on August 11, 2017, with burial at the Veteran's Cemetery immediately following the
22 services.

23 b. On August 11, 2017, Tyrone Seals, President of HMI, waited until the
24 day the family was scheduled to leave for the cemetery to inform decedent's husband and
25 other family members that a burial permit had not been obtained and the scheduled burial
26 would have to be cancelled.

27 c. The burial was subsequently rescheduled and transpired on August 17,
28 2017, where the following events occurred:

1 i. decedent's husband and family members were summoned from
2 the funeral procession upon arrival at the Southern Nevada Veterans Cemetery ("SNVC").

3 ii. they were asked to complete paperwork in the business office
4 which should have been previously completed by HMI.

5 iii. all burial fees were previously paid to HMI and HMI was to have
6 made all burial arrangements.

7 iv. Mr. Seals failed to bring the \$450.00 burial fee check to SNVC,
8 thereby causing the family further delay and embarrassment.

9 3. The second complaint was received by the BOARD on or about September 15,
10 2017, regarding decedent LAR who died on June 29, 2017.

11 a. Decedent's family contracted with HMI to have a viewing scheduled on
12 July 14, 2017.

13 b. When the family and friends arrived for the scheduled viewing, the
14 body had not been prepared.

15 c. Family and friends were made to wait for an extended period of time
16 and some left before the viewing took place.

17 d. The registry book the family paid for could not be located.

18 e. During a conference call with family members, Mr. Seals represented
19 that he would take care of the matter, but he never followed up with the family.

20 f. Due to the fact that Mr. Seals never returned the family's phone calls,
21 they were not sure if the cremation had occurred as of August 29, 2017.

22 g. Records indicate that the cremation did not occur until October 4, 2017.

23 h. A refund was not provided to the family for the registry book until after
24 a complaint was filed with the Board and no death certificate was provided despite the fact
25 that it had been paid for by the family.

26 4. NRS 642.5174(11) states that unprofessional conduct includes violation of any
27 provision of this chapter, any regulation adopted thereto or any order of the Board.

28 5. NRS 642.5174(12) states that unprofessional conduct includes violation of

1 any state law or municipal or county ordinance affecting the handling, custody, care
2 or transportation of dead human bodies, including, without limitation, chapters 440, 451
3 and 452 of NRS.

4 6. NRS 642.5174(15) states that unprofessional conduct includes taking undue
5 advantage of the patrons of a funeral establishment or direct cremation facility, or being
6 guilty of fraud or misrepresentation in the sale of merchandise to those patrons.

7 7. NRS 642.5174(18) states that unprofessional conduct includes unethical
8 practices contrary to the public interest as determined by the Board.

9 8. NRS 440.020 states that every dead body lying within this state shall be
10 decently buried or cremated with a reasonable time after death.

11 9. NRS 440.450 states that the funeral director or person acting as undertaker
12 is responsible for obtaining and filing the certificate of death with the local health officer,
13 or his or her deputy, in the registration district in which the death occurred, and for
14 securing a burial or removal permit prior to any disposition of the body.

15 10. That pursuant to Nevada Revised Statute (NRS) 642.5175:

16 The following acts are grounds for which the Board may take disciplinary action
17 against a person who holds a license, permit, or certificate issued by the Board pursuant to
18 this chapter or chapter 451 or chapter 452 of NRS, or may refuse to issue such a license,
19 permit, or certificate to an applicant therefor:

- 20 1) Conviction of a crime involving moral turpitude.
- 21 2) Unprofessional conduct.
- 22 3) False or misleading advertising.
- 23 4) Conviction of a felony relating to the practice of funeral directors
or funeral arrangers.
- 24 5) Conviction of a misdemeanor that is related directly to the business
of a funeral establishment, direct cremation facility, cemetery, or
crematory.

25 11. That pursuant to Nevada Revised Statute (NRS) 642.5176:

26 If the Board determines that a person who holds a license, permit or certificate
27 issued by the Board pursuant to this chapter or chapter 451 or 452 of NRS has committed
28 any of the acts set forth in NRS 642.5175 the Board may:

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

12. HMI does not contest the allegations in the Complaint, and acknowledges that as a consequence they are subject to discipline pursuant to the above charges and statutory provisions.

STIPULATED ADJUDICATION

HMI stipulates that pursuant to the authority of NRS 642.5176, the BOARD will administer a PUBLIC REPRIMAND. In addition, HMI agrees to comply with the following conditions:

1. Within thirty (30) days of the approval and execution of this Consent Decree, HMI shall pay four hundred sixty three dollars and 08/100 (\$463.08) in legal and investigative fees and one thousand dollars (\$1,000.00) in administrative fines.

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 HMI.

b. In the event of default, HMI agrees that its establishment permit shall be immediately suspended. The suspension of HMI's permit to operate a funeral establishment shall continue until the unpaid balance is paid in full and the suspension is subject to being reported to all appropriate agencies.

2. HMI shall obey all federal, state and local laws, and orders of the BOARD, which are not inconsistent with this Consent Decree, pertaining to the operation of a

1 funeral establishment in this State. Any and all violations shall be reported by HMI to the
2 BOARD in writing within seventy-two (72) hours.

3 3. HMI agrees that they will be financially responsible for all requirements of
4 this Consent Decree and any reasonable financial assessments by the Board for the Cost of
5 monitoring its compliance or carrying out the provisions of this Consent Decree.

6 **VIOLATION OF TERMS OF CONSENT DECREE**

7 HMI understands that the BOARD may, upon thirty (30) days' notice to respondents,
8 convene a hearing for the limited purpose of establishing that it violated the terms of this
9 Consent Decree. If such a hearing results in a finding of a violation of this Consent Decree,
10 the BOARD may impose any penalty upon HMI authorized by
11 NRS 642.5176.

12 HMI agrees to waive its rights to appeal the substantive legal basis of the original
13 disciplinary action, which is the basis for this Consent Decree. In the event an alleged
14 violation of the Consent Decree is taken to hearing and the facts that constitute the
15 violation are determined to be not proven, no disciplinary action shall be taken by
16 the BOARD.

17 **ACCEPTANCE BY THE BOARD**

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

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22 **COMPLETE CONSENT DECREE**

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

26 DATED this 25 day of Sept, 2018.

27 By: 
28 Tyrone Seals, President

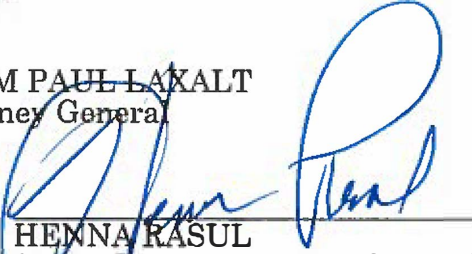
Heritage Mortuary Inc.
Funeral Establishment Permit No. EST85

The foregoing Consent Decree between HERITAGE MORTUARY INC. and the
STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case Nos.
FB17-23 and FB17-24 is approved as to form and content.

DATED this 25 day of OCTOBER, 2018.

ADAM PAUL LAXALT
Attorney General

By:



HENNA RASUL
Senior Deputy Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1234

1 **ORDER**

2 By a majority vote on the 11th day of December, 2018, the State of Nevada
3 Board of Funeral and Cemetery Services approved and adopted the terms and conditions
4 set forth in the attached Consent Decree with HERITAGE MORTUARY INC.

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

6 DATED this 11th day of December, 2018.

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8 By: 
9 Dr. Randy Sharp, Chairman
10 for the Board of Funeral and
11 Cemetery Services
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