

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

1
2
3 IN THE MATTER OF)
4)
5 SMITH FAMILY FUNERAL HOME,) CASE NO. FB20-02
6 Establishment Permit No. EST5)
7 And)
8 JEFFREY T. SMITH,)
9 Managing Funeral Director)
10 Funeral Director License No. FD47.)
Respondents.)

CONSENT DECREE

11
12 The State of Nevada Board of Funeral and Cemetery Services ("BOARD") having
13 jurisdiction over SMITH FAMILY FUNERAL HOME Establishment Permit No EST5 and
14 JEFFREY T. SMITH FD47 ("RESPONDENTS"), pursuant to NRS 642.5175; complaint
15 against said permit and license holders having been received alleging violations of the
16 Nevada statutes and regulations controlling establishment facilities and funeral
17 directors; and the parties being mutually desirous of settling the controversy between
18 them relative to the pending complaint;

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

VOLUNTARY WAIVER OF RIGHTS

21
22 RESPONDENTS are aware of, understand, and have been advised of the effect of
23 this Consent Decree, which they have carefully read and fully acknowledged.
24 RESPONDENTS have had the opportunity to consult with competent counsel of their
25 choice.

26 RESPONDENTS have freely and voluntarily entered into this Consent Decree, and
27 are aware of their rights to contest the charges. These rights include representation by
28 an attorney at their own expense, the right to file an answer in response to a formal

1 complaint, the right to a public hearing on any charges or allegations formally filed, the
2 right to confront and cross-examine witnesses called to testify against them, the right to
3 present evidence on their own behalf, the right to testify on their own behalf, the right to
4 receive written findings of fact and conclusions of law supporting the decision on the
5 merits of the complaint, and the right to obtain judicial review of the decision. All of
6 these rights are being voluntarily waived by RESPONDENTS in exchange for the
7 BOARD'S acceptance of this Consent Decree.

8 If the Consent Decree is not accepted by the BOARD, no member of the BOARD
9 will be disqualified from further hearing of this matter, by reason of his or her
10 consideration of the Consent Decree. RESPONDENTS hereby waive any claim of bias or
11 prejudice based upon said consideration by any member of the BOARD in any subsequent
12 disciplinary hearing conducted by the BOARD.

13 **JURISDICTION**

14 RESPONDENTS acknowledge that the BOARD has jurisdiction over it and the
15 conduct alleged in the Complaint. RESPONDENTS acknowledge that the BOARD has
16 the legal power and authority to take disciplinary action, including, but not limited to, the
17 revocation of permits to operate an establishment facility and practice funeral directing
18 in Nevada.

19 RESPONDENTS acknowledge that the BOARD will retain jurisdiction over this
20 matter until all terms and conditions set forth in this Consent Decree have been met to
21 the satisfaction of the BOARD.

22 **PUBLICATION OF CONSENT DECREE**

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

3 **INDEMNIFICATION**

4 RESPONDENTS, for themselves, their heirs, executors, administrators, successors
5 and assigns, hereby indemnifies and hold harmless the State of Nevada, the BOARD, the
6 Nevada Attorney General's office and each of its members, agents and employees in their
7 individual and representative capacities against any and all claims, suits, demands,
8 actions, debts, damages, costs, charges, and expenses, including court costs and attorney's
9 fees against any persons entities as well as all liability, losses, and damages of any nature
10 whatsoever that the persons and entities named in this paragraph shall have or may at
11 any time sustain or suffer by reason of this investigation, this disciplinary action, this
12 settlement or its administration.

13 **STIPULATED FACTS AND CONCLUSIONS OF LAW**

14 RESPONDENTS understand the nature of the allegations under consideration by
15 the BOARD. They acknowledge that the conduct alleged in the complaint, if proven,
16 constitutes violations of the Nevada Board of Funeral and Cemetery Services Practice Act
17 (NRS and NAC 642). They further recognize that if this matter were to be taken to a
18 disciplinary hearing before the BOARD, there is a substantial likelihood that the
19 following allegations could be proven as true, and that as a result they would be subject to
20 disciplinary action by the BOARD. As such, RESPONDENTS do not contest the following
21 allegations:

22 1. RESPONDENTS held valid permits to operate the establishment facility and
23 a valid funeral director license referenced in this document on the date of the alleged
24 violation, and continue to hold said licenses and permits through the present day.

25 2. A complaint was received by the BOARD on or about February 12, 2020
26 alleging the following:

27 a. RESPONDENTS were recently advertising funeral services in the
28 local Fallon telephone book for several years stating that:

1 i. RESPONDENTS are the only funeral home in Fallon owned
2 and operated by licensed morticians.

3 ii. RESPONDENTS's facility is "Fallon's Newest & Finest
4 Facility."

5 3. It is alleged that this advertisement has caused people to question the
6 legitimacy of a licensed competitor funeral home in Fallon, Nevada.

7 4. The definition contained in NRS 642.015 states a funeral director can be
8 referred to as a mortician.

9 5. NRS 642.5172(5) states that false or misleading advertising includes
10 advertising which impugns the honesty, trustworthiness or business or professional
11 standards of competitors.

12 6. NRS 642.5174(1) states that unprofessional conduct includes
13 misrepresentation or fraud in the operation of a funeral establishment, direct cremation
14 facility, cemetery or crematory, or the practice of a funeral director or funeral arranger.

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

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

19 9. NRS 642.345(3) which states the funeral director is responsible for the proper
20 management of each funeral establishment or direct cremation facility that he or she
21 manages.

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

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

- 26 1. Conviction of a crime involving moral turpitude.
27 2. Unprofessional conduct.
28 3. False or misleading advertising.
 4. Conviction of a felony relating to the practice of funeral
directors or funeral arrangers.

1 5. Conviction of a misdemeanor that is related directly to the
2 business of a funeral establishment, direct cremation facility,
cemetery, or crematory.

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

4 If the Board determines that a person who holds a license, permit
5 or certificate issued by the Board pursuant to this chapter or
chapter 451 or 452 of NRS has committed any of the acts set forth
6 in NRS 642.5175 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
10 further order of the Board;
11 (d) Impose a fine of not more than \$5,000 for each act that
constitutes a ground for disciplinary action;
12 (e) Place the person on probation for a definite period subject to
13 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. RESPONDENTS do not contest the allegations in the Complaint, and
21 acknowledge that as a consequence are subject to discipline pursuant to the above
22 charges and statutory provisions.

23 STIPULATED ADJUDICATION

24 RESPONDENTS stipulate that pursuant to the authority of NRS 642.5176, the
25 BOARD will administer a public REPRIMAND and RESPONDENTS must comply with
26 the following conditions:

27 1. Within thirty (30) days of the approval and execution of this Consent Decree,
28 RESPONDENTS shall pay one thousand thirty-four and 21/100 dollars (\$1,034.21) in
attorney's fees and costs and one thousand dollars (\$1,000.00) in an administrative fine.

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 RESPONDENTS.

b. In the event of default, RESPONDENTS agree that its funeral
establishment permit and funeral director license shall be

1 immediately suspended. The suspension of RESPONDENTS permit
2 and license shall continue until the unpaid balance is paid in full and
3 the suspension is subject to being reported to all appropriate agencies.

4 2. RESPONDENTS shall cease and desist any further advertising which states
5 they are the only facility with a licensed mortician and stating they are the "finest".

6 3. RESPONDENTS shall obey all federal, state and local laws, and orders of
7 the BOARD, which are not inconsistent with this Consent Decree, pertaining to operating
8 a crematory in this State. Any and all violations shall be reported by RESPONDENTS to
9 the BOARD in writing within seventy-two (72) hours.

10 4. RESPONDENTS agree that it will be financially responsible for all
11 requirements of this Consent Decree and any reasonable financial assessments by the
12 Board for the cost of monitoring its compliance or carrying out the provisions of this
13 Consent Decree.

14 VIOLATION OF TERMS OF CONSENT DECREE

15 RESPONDENTS understand that the BOARD may, upon thirty (30) days' notice to
16 respondents, convene a hearing for the limited purpose of establishing that they violated
17 the terms of this Consent Decree. If such a hearing results in a finding of a violation of
18 this Consent Decree, the BOARD may impose any penalty upon RESPONDENT
19 authorized by NRS 642.5176.

20 RESPONDENT agrees to waive its rights to appeal the substantive legal basis of
21 the original disciplinary action, which is the basis for this Consent Decree. In the event
22 an alleged violation of the Consent Decree is taken to hearing and the facts which
23 constitute the violation are determined to be not proven, no disciplinary action shall be
24 taken by the BOARD.

25 ACCEPTANCE BY THE BOARD

26 This Consent Decree will be presented and accepted by the BOARD with a
27 recommendation for approval from the Attorney General's Office at its next meeting.
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1 COMPLETE CONSENT DECREE

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

5 DATED this 27 day of Oct., 2020

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7 By: Troy M. Smith
8 AMKRI, Inc.
9 SMITH FAMILY FUNERAL HOME
Troy M. Smith, President
License No. EST5

10 DATED this 27 day of October, 2020

11
12 By: Jeffrey T. Smith
13 Jeffrey T. Smith, Managing Funeral Director
14 License No. FB47

15 The foregoing Consent Decree between SMITH FAMILY FUNERAL HOME, and
16 the STATE OF NEVADA FUNERAL AND CEMETERY SERVICES BOARD in Case No.
17 FB20-02 is approved as to form and content.

18 DATED this 27 day of OCTOBER, 2020

19
20 AARON D. FORD
Attorney General

21 By: Henna Rasul
22 HENNA RASUL
23 Senior Deputy Attorney General
24 100 N. Carson Street
25 Carson City, Nevada 89701
26 (775) 684-1234
27
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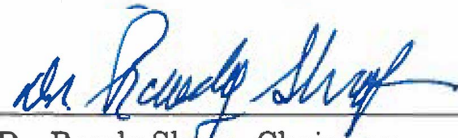
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ORDER

By a majority vote on the 18th day of November 2020, 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 Smith Family Funeral Home.

IT IS HEREBY ORDERED AND MADE EFFECTIVE.

DATED this 19th day of November 2020

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