

BEFORE THE OFFICE OF FUNERAL HOME AND CREMATORY REGISTRATION
STATE OF COLORADO

Case Nos. 2014-2560, 2015-4292, 2015-4298, 2016-2794, 2016-5889, 2017-4311,
2017-4861, 2017-4877, 2017-4879, 2018-141, 2018-694, 2018-1250, 2018-1251

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE
REGISTRATIONS TO PERFORM SERVICES AS A FUNERAL ESTABLISHMENT AND
CREMATORY IN THE STATE OF COLORADO OF SUNSET MESA FUNERAL DIRECTORS,
REGISTRATION NOS. FH-556 AND CM-515.

IT IS HEREBY STIPULATED by and between the Director of the Division of Professions and Occupations, Department of Regulatory Agencies, Office of Funeral home and Crematory Registration ("Director") and Sunset Mesa Funeral Directors ("Respondent"), as follows:

1. Respondent was issued a registration to provide services as a funeral establishment in the State of Colorado on January 1, 2010. The registration was active until February 12, 2018, when it was summarily suspended by the Director pursuant to section 24-4-104(4) C.R.S.
2. Respondent was also issued a registration to provide services as a crematory in the State on Colorado on January 1, 2010. The registration was active until February 12, 2018, when it as summarily suspended by the Director pursuant to section 24-4-104(4), C.R.S.
3. The Director has jurisdiction over Respondent and the subject matter of this Stipulation and Final Agency Order ("Order").
4. It is the intent of the parties and the purpose of this Order to provide for a settlement of all matters set forth in case numbers 2014-2560, 2015-4292, 2015-4298, 2016-2794, 2016-5889, 2017-4311, 2017-4861, 2017-4877, 2017-4879, 2018-141, 2018-694, 2018-1250, 2018-1251 and Office of Administrative case number FC 2018-0001 without the necessity of holding a formal disciplinary hearing. This Order constitutes the entire agreement between the parties, and there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Order.

5. Respondent understands and acknowledges that:
 - a. Respondent has the right to be represented by an attorney of the Respondent's choice, and Respondent has voluntarily chosen to proceed without representation;
 - b. Respondent has the right to a formal disciplinary hearing pursuant to sections 12-54-401(4) and 24-4-105, C.R.S.;
 - c. By entering into this Order, Respondent knowingly and voluntarily waives the right to a hearing where it can deny the allegations and relieves the Director of its burden of proof;
 - d. By entering into this Order, Respondent knowingly and voluntarily waives the right to present a defense by oral and documentary evidence, and to cross-examine witnesses who would testify on behalf of the Director; and
 - e. By entering into this Order, Respondent knowingly and voluntarily waives the right to seek judicial review of this Order.
6. The Director alleges:
 - a. Respondent identified Greg Huffer as the Appointed Designee on its 2010 Applications for Funeral Establishment and Crematory Registrations. Greg Huffer sold Respondent to Megan Hess on or about October 1, 2011, at which time Mr. Huffer's employment with and responsibilities for the business ceased. Respondent has been owned and operated by Megan Hess since approximately October 2011. Respondent failed to notify the Director that Mr. Huffer was no longer affiliated with the business and failed to remove Mr. Huffer as the appointed designee for FH-566 or CM-515.
 - b. Respondent has not appointed a qualified designee for FH-556 or CM-515 since changing ownership in or around October 2011.
 - c. In February 2014, Respondent took possession of Decedent JE for cremation. Respondent returned cremains purporting to be Decedent JE to Decedent's next-of-kin. Decedent JE's family had the cremains analyzed and the cremains were found to be concrete.

- d. In March 2015, Respondent took possession of Decedent FC for cremation. Respondent returned cremains purporting to be Decedent FC to Decedent's next-of-kin. Decedent FC's family had the cremains analyzed and the cremains were found to be concrete.
- e. In December 2015, Respondent took possession of Decedent HC. Respondent agreed to transport the body of Decedent HC to a cancer research facility to be used for scientific research, per the family's wishes. Respondent cremated Decedent HC without first transporting his body to a cancer research center for scientific research.
- f. In September 2016, Respondent embalmed Decedent RH without first obtaining permission from Decedent RH's family.
- g. In May 2017, Respondent took possession of Decedent GH for cremation. Respondent was initially unable to locate Decedent GH's cremains. Upon eventual receipt of the cremains labeled GH, Decedent GH's family had the cremains analyzed. The cremains were found to weigh less than is to be expected for Decedent GH's height and weight. The analyst located remains of a watch, rivets, and pieces of a metal zipper within the cremains. When Respondent took possession of Decedent GH, Decedent GH was wearing pajamas without zippers or rivets, and was not wearing a watch.
- h. On or about February 6, 2018, the Office of Investigations for the Department of Regulatory Agencies ("OI") conducted an on-site investigation of Respondent's registered location. Investigators for OI observed bags of dry concrete/cement at Respondent's registered location.
- i. Respondent cremated Decedents RF, PT, GS, RB, and NH without the issuance of a disposition permit.
- j. Respondent failed to include in its contract for funeral services the statement "INQUIRIES REGARDING YOUR FUNERAL AGREEMENT MAY BE DIRECTED TO THE DEPARTMENT OF REGULATORY AGENCIES", along with the current address or telephone number of the Department of Regulatory Agencies.
- k. Respondent failed to maintain required cremation records at its registered location for at least five years.

- l. Respondent failed to maintain records of the final disposition of human remains for at least seven years.
- m. Respondent failed to respond to numerous allegation letters from the Director.

7. Respondent denies the allegation(s) in paragraph 6 above, yet acknowledges that, if the Director were to prove the allegations at hearing, it would constitute a prima facie case of conduct that Respondent violated sections 12-54-103(2); 12-54-104(1)(l), (n) and (o); 12-54-106(1); 12-54-110(2)(d), (3)(c) and (d); 12-54-301(1)(f) and (l); 12-54-303(2)(d), (3)(c) and (d); 12-54-305(3); and 12-54-307(2)(a)(IX) C.R.S.

8. The Director is authorized to suspend and revoke the registration of a funeral home and crematory as provided in section 12-54-401, C.R.S., for any of the following:

12-54-401. Powers and duties of the director – rules. (1)

The director may deny, suspend, refuse to renew, issue a letter of admonition or confidential letter of concern to, revoke, place on probation, or limit the scope of practice of the registration of a funeral establishment or crematory under this article that has:

- (c) Violated this article or any rule of the director adopted under this article.

9. Respondent hereby permanently relinquishes its registrations to perform services as a funeral establishment and crematory in the State of Colorado and requests that this Order be accepted by the Director with the same force and effect as an Order entered as a result of a formal disciplinary hearing.

10. Respondent agrees to never again apply for any type of registration granted by the Director, including, but not limited to, funeral establishment and crematory registrations.

11. Respondent's owner and operator, Megan Hess, agrees to never file or submit an application for any funeral establishment or crematory registration for which she is the designee.

12. Both parties acknowledge that the terms of this Order were mutually negotiated and determined.

13. Both parties acknowledge that they understand the legal consequences of this Order, both parties enter into this Order voluntarily, and both parties agree that no term or condition of this Order is unconscionable.

14. This Order shall become an Order of the Director when accepted by the Director and signed by an authorized representative of the Director.

15. Upon becoming effective, this Order shall become a permanent part of the record and shall be open to public inspection and disclosure pursuant to the Director's standard policies and procedures.

RESPONDENT



Sunset Mesa Funeral Directors
Signed by Megan Hess, Owner
and Operator



Megan Hess, Individually

DIRECTOR



Ronne Hines
Office of Funeral Home and Crematory
Registration
1560 Broadway, Suite 1350
Denver, Colorado 80202

Approved this 7th day of August,
2018.

APPROVED AS TO FORM AND SUBSTANCE

CYNTHIA H. COFFMAN
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The FOREGOING Stipulation and Final Agency Order is effective upon service to Respondent, on this 7th day of August, 2018.