

STATE OF MINNESOTA
BEFORE THE COMMISSIONER OF HEALTH

In the Matter of Kevin B. Chilson and
The Peterson Chapel,
a licensed funeral establishment

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED, by Kevin B. Chilson (“Owner”), on behalf of himself and The Peterson Chapel, and the Minnesota Department of Health (“Department”):

1. The Department is charged with the enforcement of Minn. Stat. ch. 149A (“Chapter 149A”), which governs the practice of mortuary science. The Department is authorized by Minn. Stat. §§ 149A.06, subd. 1 and 149A.60 to assess monetary penalties and enter into compliance agreements with persons whose conduct is subject to regulation under Chapter 149A or laws and rules governing the removal, preparation, transportation arrangements for final disposition of dead human bodies, and the practice of mortuary science. The purpose of this Stipulation and Consent Order (“Stipulation”) is to resolve the violations alleged in paragraph 5 below.

2. The Owner Kevin B. Chilson is the chief executive officer of Chilson Holdings, Inc., doing business as The Peterson Chapel, and is the owner and operator of The Peterson Chapel in St. Michael, Minnesota. The Department has issued a funeral establishment license (#0915) for “The Peterson Chapel” at 300 North Main Street, St. Michael, Minnesota.

3. Pursuant to Minn. Stat. § 149A.80, subd. 2 **Determination of right to control and duty of disposition**, the right to control the dead human body, including the location and conditions of final disposition, unless other directions have been given by the decedent pursuant to subdivision 1 of section 149A.80, vests in, and the duty of final disposition of the body devolves upon, the persons listed in subparagraphs (1) to (12) of subdivision 2, in the order of priority listed. The persons listed in subparagraph (3) are: the adult child or the majority of the adult children of the decedent, provided that, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child or children who represent that they are the sole surviving child, or that they constitute a majority of the surviving children.

4. Pursuant to Minn. Stat. § 149A.95, subd. 4 **Crematories and Cremation** subd. 4 **Authorization to cremate required**, no crematory shall cremate or cause to be cremated any dead human body or identifiable body part without receiving written authorization to do so from the person or persons who have the legal right to control disposition as described in section 149A.80 or the person's legal designee. Pursuant to subparagraph (3) of subdivision 4, the written authorization must include the name, address, relationship to the deceased, and signature of the person or persons with legal right to control final disposition or a legal designee.

5. In October 2014, the Department conducted an investigation into the funeral services conducted by The Peterson Chapel. The decedent had three adult children at the time of his death, each having equal say in his final disposition. Neither a health care directive nor a will was discovered. The on staff licensed funeral director (“director”), made funeral arrangements with the decedent’s family, taking direction from the decedent’s eldest adult

child. The decedent's two adult daughters were not present for the funeral arrangements; however, they were present for the visitation and the funeral service. It was the decision of the family to hold a funeral service followed by cremation. The decedent's eldest child signed the itemized written statement at the time of arrangements were made. The director obtained the signature of the decedent's eldest child on the cremation authorization; however she failed to obtain the signature of at least one of the decedent's daughters, which would constitute the majority of the adult children.

5. The Owner acknowledges and admits that the licensed staff funeral director did not obtain the proper signatures for cremation as required by Minn. Stat. § 149A.95 subd. 4(3).

6. In order to resolve this matter and thus avoid the expense and uncertainty of enforcement proceedings under Chapter 149A, the Owner on behalf of himself and The Peterson Chapel agrees to the following administrative penalties and corrective actions:

A. **Administrative Penalties.** The Owner is hereby assessed a civil penalty of \$5,000.00. However, \$3,500.00 of the civil penalty shall be stayed so long as The Peterson Chapel is in compliance with the Corrective Action requirements set forth in paragraph 6(C) below. Payment of the penalty amount of \$1,500.00 shall be by check or money order payable to "Treasurer, State of Minnesota." The payment is due within 30 days of the effective date of this Stipulation.

B. If the Department determines that the Owner or The Peterson Chapel fails to comply with the Corrective Actions requirements of paragraph 6(C) below, or has violated Minn. Stat. § 149A.95, subd. 4 (3), again within three years of the effective date of this Stipulation, the \$3,500.00 stayed penalty will become due and owing as set forth in paragraph 6(D) below.

C. **Corrective Actions.** The Owner on behalf of himself and The Peterson Chapel shall take the following corrective actions:

- i.) On or before March 2, 2015, the Owner must conduct a training session with all of the on staff licensed funeral directors and interns employed by or working at The Peterson Chapel. The training must include the review of: (a) Minnesota Statute 149A. 80 and 149A.95; and (b) the process for completing all paperwork and obtaining all of the proper signatures for services offered by The Peterson Chapel, including but not limited to removal certificates, embalming authorizations, cremation authorizations, and itemized written statements.
- ii.) Within five business days of the training, the Owner must provide to the Department a copy of the materials provided to the persons attending the training session, the date the training was held, and the name, license number, and signature of the funeral directors and interns attending the training.

D. **Violation of this Stipulation.** If the Department determines that the Owner and/or any officer, employee, intern, clinical student, contractor or authorized representative of The Peterson Chapel has violated Minn. Stat. § 149A.95, subd. 4(3), within three years of the effective date of this Stipulation, the Department shall give the Owner written notice specifying the violating actions. Unless the Owner initiates dispute resolution pursuant to paragraph 6(E) below within 30 calendar days after receiving the written notice from the Department, the \$3,500.00 stayed penalty will become due and owing.

- E. If a dispute arises regarding the Department's determination that the Owner or The Peterson Chapel has failed to comply with Minn. Stat. § 149A.95, subd. 4(3), the Owner on behalf of himself and/or The Peterson Chapel may initiate dispute resolution by providing the Department with a written statement setting forth the matter in dispute, his position, and the information he is relying on to support his position. Dispute resolution shall be initiated within thirty (30) calendar days after the receipt of written notice from the Department concerning violation of Minn. Stat. § 149A.95, subd. 4(3). The Department will have fourteen (14) calendar days after receipt of the request for dispute resolution to provide a written statement of its position and supporting information to the Owner.
 - F. Unless the Department and the Owner are able to reach a resolution of the dispute and to reduce such resolution to writing in a form agreed upon by the parties within twenty-one (21) calendar days after the Department's reply, the Commissioner shall issue a written decision to the parties resolving the dispute.
 - G. If the Commissioner's decision is issued pursuant to paragraph 6(F) above, it shall become an integral and enforceable part of this Stipulation, unless the Owner or The Peterson Chapel commences an action to challenge the Commissioner's decision within sixty (60) calendar days of the date of their receipt of the decision. For purposes of judicial review, the Commissioner's decision shall be considered a final decision of the Department of Health.
7. This Stipulation shall not in any way limit or affect the authority of the Commissioner to proceed against the Owner or The Peterson Chapel to initiate enforcement

action for any alleged violation of Chapter 149A by the Owner or The Peterson Chapel that is not the subject of this Stipulation.

8. The Owner, on behalf of himself and The Peterson Chapel, hereby acknowledges that he has read, understood, and agreed to this Stipulation and has voluntarily signed it.

9. The terms of this Stipulation shall be legally enforceable by either party in a court of appropriate jurisdiction.

10. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, that varies the terms of the Stipulation.

11. This Stipulation shall be binding upon the Owner and his successors and assignees; The Peterson Chapel and its successors and assignees; and the Minnesota Department of Health and its successors and assignees.

12. This Stipulation may not be modified or amended except in writing and executed by the parties.

13. The effective date of this Stipulation is the date upon which it is signed on behalf of the Minnesota Department of Health.

**KEVIN B. CHILSON AND THE
PETERSON CHAPEL**

**MINNESOTA DEPARTMENT OF
HEALTH**

Signed: Kevin B. Chilson

Signed: Darcy Miner

Dated: January 20, 2015

Dated: 1/29/15

KEVIN B. CHILSON
Chief Executive Officer
Chilson Holdings, Inc., dba
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