

**BEFORE THE MINNESOTA DEPARTMENT OF HEALTH
HEALTH OCCUPATIONS PROGRAM**

STIPULATION AND CONSENT ORDER

In the Matter of Tucker D. Freestone, Unlicensed Complementary and Alternative Health Care Practitioner

IT IS HEREBY STIPULATED AND AGREED by Tucker D. Freestone [hereinafter Practitioner] and the Health Occupations Programs within the Minnesota Department of Health [hereinafter Department], that, without trial or adjudication of any issue of fact or law herein:

1. Except as otherwise specified herein, this Stipulation and Consent Order [hereinafter, Stipulation], investigative reports, and related documents shall constitute the entire record upon which this Order is based and shall be filed with the Department. The Stipulation document is public data pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 ("MGDPA") and Minnesota Statutes, section 146A.06, subdivision 2. All other data comprising the record shall not be considered a part of this Stipulation and shall maintain the data classifications to which they are entitled under the MGDPA and Minnesota Statutes, section 146A.06, subdivision 2.
2. Pursuant to Minnesota Statutes, section 146A.01, subdivision 4 (17), complementary and alternative health care practices include the broad domain of complementary and alternative healing methods and treatments, including but not limited to: body work, massage, and massage therapy. Practitioner is, and has been, subject to the jurisdiction of the Department because Practitioner engaged in unlicensed complementary and alternative health care practices.
3. When violations of law are found, the Department has authority to take disciplinary action including the revocation or suspension of a Practitioner's right to practice, pursuant to Minnesota Statutes, section 146A.09, subdivisions 1(1) and (2); to impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the Practitioner of any economic advantage gained by reason of the violation or to reimburse the Department for all costs of the investigation and proceeding, pursuant to Minnesota Statutes, section 146A.09, subdivision 1(4); or to impose a fee on the Practitioner to reimburse the Department for all or part of the cost of the proceedings resulting in disciplinary action including, but not limited to, the amount paid by the Department for services from the Office of Administrative Hearings, attorney fees, court reports, witnesses, reproduction of records, staff time, and expense incurred by the Department, pursuant to Minnesota Statutes, section 146A.09, subdivision 1(7).
4. Practitioner is not now, nor ever has been, licensed or registered by the health-related licensing boards or the Commissioner of Health in the State of Minnesota. Massage therapists are not required to be licensed by the State of Minnesota.
5. The Department received a complaint alleging that the Practitioner engaged in sexual contact with a client and was convicted of a crime reasonably related to engaging in complementary and alternative health care practices.

6. Minnesota Court records confirm that on October 25, 2010, Practitioner entered a plea and was convicted of violating Minnetonka City Code, section 810.055(4): Fail to keep Customer Covered. Practitioner has paid all fines/fees imposed by the court and satisfied court conditions including the surrender of his Minnetonka massage therapy license. Practitioner completed his probation on October 25, 2011.
7. On April 13, 2011, the Department sent a notice of investigation and request for an interview to the Practitioner by regular and certified mail via the United States Postal Service. The Practitioner acknowledged receipt of the certified mail on April 16, 2011.
8. Practitioner retained legal counsel, and through counsel, informed the Department that he declined to be interviewed with or without the issuance of a subpoena.
9. Minnesota Statutes, section 146A.08, subdivision 1, describes the following conduct as prohibited and grounds for disciplinary action: (a) Conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no-contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to engaging in complementary and alternative health care practices; (d) Engaging in sexual contact with a complementary and alternative health care client, engaging and conduct that may be reasonably interpreted by a client as sexual; (o) Failure to make reports as required by section 146A.03 or cooperate with the investigation of the office.
10. The Department alleges, and the Practitioner unconditionally admits, for purposes of these and any future disciplinary proceedings that he has failed to cooperate with an investigation being conducted by the Department; however, Practitioner has agreed to cooperate to the extent of his admissions and review and consideration of this Stipulation and Consent Order.
11. Practitioner waives any claim against the Department, the State of Minnesota, or any employee thereof, under the Equal Access to Justice Law, Minnesota Statutes, sections, 15.471 to 15.474.
12. For purposes of this Stipulation, Practitioner expressly waives all procedures and proceedings before the Department to which Practitioner may be entitled under the Minnesota and/or United States Constitution, statutes, and rules, and also waives the right to any judicial review or appeal under the Administrative Procedures Act, by writ of certiorari under Minnesota Statutes, section 480A.06, or otherwise from the Order issued by the Division Director pursuant to this Stipulation.
13. Except as otherwise specified herein, this Stipulation, investigative reports, and related documents shall constitute the entire record of the proceedings herein upon which this Stipulation is based and shall be filed with the Department. Any report or other material related to this action and received after the date this Stipulation is executed shall become part of the record and may be considered by the Department in future aspects of this proceeding. These items shall maintain the data classification to which they are entitled under the MGDPA and Minnesota Statutes, section 146A.06, subdivision 2. They shall not be considered a part of this Stipulation and shall not, to the extent they are not already public documents, become public merely because they are referenced herein.

14. In the event the Division Director, does not approve this settlement, or a lesser remedy than specified herein, this Stipulation shall be null and void and shall not be used for any purpose by either party hereto; provided, however, that should this occur and thereafter an administrative contested-case is initiated pursuant to the MGDPA, Practitioner agrees not to raise any objections on any administrative level or in any court action to the Department's proceeding and hearing the case on the basis that the Division Director has become disqualified due to the Division Director's review and consideration of this Stipulation and record.
15. This Stipulation shall not in any way or manner limit or affect the authority of the Department to proceed against Practitioner by initiating a contested-case hearing or by other appropriate means on the basis of any act, conduct, or omission of Practitioner justifying action which occurred after the date of this Stipulation and which is not directly related to specific facts and circumstances set forth herein.
16. Any appropriate federal or state court shall, upon application of the Director, enter an order of enforcement for any or all of the terms of this Stipulation.
17. Practitioner hereby acknowledges having read, understood, and agreed to this Stipulation, and has freely and voluntarily signed it. In signing this Stipulation, Practitioner acknowledges full awareness it must be approved by the Division Director. The Division Director may approve the Stipulation as proposed, approve it subject to specific changes, or reject it. If the Division Director approves the Stipulation or makes a change acceptable to the Practitioner, the Division Director will issue the Order and it will take effect. If the changes are unacceptable to Practitioner, or the Division Director rejects the Stipulation, it will be of no effect, except as specified in paragraph 14, above.
18. Practitioner's violation of this Stipulation will be considered a violation of Minnesota Statutes, section 146A and will constitute grounds for further disciplinary action.
19. Upon this Stipulation, and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Practitioner does hereby consent that until further order of the Division Director, made after notice and hearing or after agreement between the Department and Practitioner the Division Director may make and enter an Order for the following:

A. Practitioner's right to engage in unlicensed complementary and alternative health care practices, including, but not limited to, body work, massage, and massage therapy, pursuant to Minnesota Statutes, Chapter 146A, is indefinitely suspended.

B. Within three (3) years from the effective date of this Stipulation, Practitioner may petition the department in writing to reopen the investigation. At such time, Practitioner agrees to fully cooperate with the Department's investigation, including appearing for interviews, case-conferences, or hearings. Practitioner acknowledges that in reopening the investigation the Department may take further disciplinary action against him as provided in Minnesota Statutes, 146A.09. Practitioner retains the right to challenge subsequent findings by the Department in a contested-case hearing provided he has completed a written request to reopen the investigation within three (3) years from the effective date of

this stipulation and fully cooperated with the investigation.

C. After a period of three (3) years from the effective date of this Stipulation, Practitioner's right to petition the department to reopen this investigation is revoked and Practitioner acknowledges that at no time thereafter may he offer or provide unlicensed complementary and alternative health care practices, including body work, massage, and massage therapy, as defined in Minnesota Statutes, 146A.

D. Practitioner shall cooperate fully during the process of the Department's enforcement and monitoring of compliance with this Stipulation and shall respond to the Department's correspondence within the time provided by law or by the deadline of Department staff.

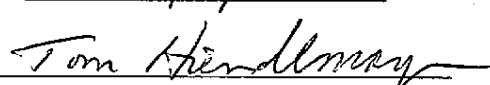
20. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Stipulation.
21. Practitioner agrees that service of this Stipulation by regular mail to his attorney Mr. Evan H. Weiner, Esq., Neve Webb, PLLC, Suite 1080, 8500 Normandale Lake Blvd., Minneapolis, MN 55437 is due and sufficient service on Practitioner.

Date: Jan 13, 2012

Dated: 2/9/12, 2012



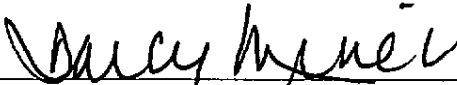
Tucker D. Freestone
Practitioner



Tom Hiendlmayr, Director
Health Occupations Program
Minnesota Department of Health
P.O. Box 64882
Saint Paul, MN 55164-0882

Upon consideration of this stipulation and all the files, records, and proceedings herein, IT IS HEREBY ORDERED that the terms of this stipulation are adopted and implemented by the Division Director this 9th day of February, 2012.

MINNESOTA DEPARTMENT OF HEALTH

By: 
Darcy Minef, Division Director
Division of Compliance Monitoring