

STATE OF MINNESOTA
COMMISSIONER OF HEALTH

In the Matter of Legacy Funeral Home, LLC
a licensed funeral establishment,
located in St Paul, Minnesota

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by Kou Vang, owner, on behalf of himself and Legacy Funeral Home, LLC (“Legacy”), a licensed funeral establishment, and the Minnesota Department of Health (“Department”):

1. The Department is charged with enforcement of Minnesota Statutes, Chapter 149A, (“Chapter 149A”), which governs the practice of mortuary science. The Department is authorized by Minnesota Statutes §§ 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; and to impose disciplinary action against such persons for failure to comply with any provision of Chapter 149A or laws and rules governing the removal, preparation, transportation, arrangements for final disposition of dead human bodies, or for the regulation of the practice of mortuary science.

2. The purpose of this Stipulation and Consent Order (“Stipulation”) is to resolve the violations alleged in paragraphs 12, 13, 14, 15 and 16 below.

3. Pursuant to Minnesota Statutes § 149A.01, subd. 2, **Scope** “In Minnesota no person shall, without being licensed by the commissioner of health: (1) take charge of or remove from the place of death a dead human body; (2) prepare a dead human body for final disposition in any manner; or (3) arrange, direct, or supervise a funeral, memorial service, or graveside service.”

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4. Pursuant to Minnesota Statutes § 149A.20, subd. 1, **License required** “Except as provided in section 149A.01, subdivision 3, any person who takes charge of or removes from the place of death a dead human body, or prepares a dead human body for final disposition in any manner, or arranges, or supervises a funeral, a memorial service, or graveside service must possess a valid license to practice mortuary science by the commissioner.”

5. Pursuant to Minnesota Statutes § 149A.50, subd. 1, **License required** “no person shall maintain, manage, or operate a place or premise devoted to or used in the holding, care, or preparation of a dead human body for final disposition, or any place used as the office or place of business for the provision of funeral services, without possessing a valid license to operate a funeral establishment issued by the commissioner of health.”

6. Pursuant to Minnesota Statutes § 149A.70, subd. 2, **Business location** “A funeral establishment, alkaline hydrolysis facility, or crematory shall not do business in a location that is not licensed as a funeral establishment, alkaline hydrolysis facility, or crematory and shall not advertise a service that is available from an unlicensed location.”

7. Pursuant to Minnesota Statutes § 149A.70, subd. 6, **Use of unlicensed personnel** “Except as otherwise provided in this chapter, a license funeral establishment may not employ unlicensed personnel to perform the duties of a funeral director or mortician.”

8. Pursuant to Minnesota Statutes § 149A.71, subd. 1, **Unfair or deceptive acts or practices** “In selling or offering to sell funeral goods, funeral services, or burial site services to the public, it is an unfair or deceptive act or practice for a funeral provider to fail to furnish accurate price information disclosing the cost to the purchaser for each of the specific funeral goods, funeral services, burial site services used in connection with the disposition of dead human bodies to the persons inquiring about the purchase of funerals.”

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9. Pursuant to Minnesota Statutes § 149A.71, subd. 2, **Preventative requirements**

(a) "To prevent unfair or deceptive acts or practices, the requirements of this subdivision must be met."

(c) "Funeral providers must make available for viewing to people who inquire in person about the offerings or prices of funeral goods or burial site goods, separate written or typed price lists using a ten-point font or larger."

(e) "Funeral providers must give a printed price list, for retention, to persons who inquire in person about the funeral goods, funeral services, burial site goods, or burial site services or prices offered by the funeral provider. The funeral provider must give the list upon beginning discussion of either the prices of or the overall type of funeral service or disposition or specific funeral goods, funeral services, burial site goods, or burial site services offered by the provider."

(f) "Funeral providers must give an itemized written statement, for retention, to each consumer who arranges an at-need funeral or other disposition of human remains at the conclusion of the discussion of the arrangements. The itemized written statement must be signed by the consumer selecting the goods and services as required in section 149A.80. If the statement is provided by a funeral establishment, the statement must be signed by the licensed funeral director or mortician planning the arrangements."

10. Pursuant to Minnesota Statutes § 149A.91, subd. 4, **Authorization to embalm** "No dead human body shall be embalmed without written authorization."

11. The Department has issued a funeral establishment license (#1021) to Legacy located at 255 Eaton Street, St. Paul, Minnesota 55107. The owner of Legacy also owns a separate business, J.B. Realty, located at 1335 Pierce Butler Route, St. Paul, Minnesota 55104, not licensed as a funeral establishment by the Department.

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12. A staff person employed by J.B. Realty is also employed as the office manager for Legacy. The staff person employed is not a licensed funeral director or mortician and does not hold a license to practice mortuary science in the state of Minnesota.

13. Kou Vang, owner of Legacy is not licensed by the Department as a funeral director or mortician. Kou Vang contracts with another funeral establishment licensed by the Department to complete all licensed activities for Legacy.

14. On October 6, 2016, the Department received a complaint alleging that arrangements for final disposition of human remains were made by unlicensed staff at the office of J.B. Realty. The unlicensed staff failed to provide family with an accurate general price list at the beginning of funeral arrangements when starting discussion about the sale of services and merchandise, failed to secure written authorization to embalm by a licensed mortician during arrangements, and failed to provide a final statement of funeral goods and services signed by a licensed mortician at the conclusion of the arrangements. The unlicensed staff signed the final statement of funeral goods and services without holding a valid license to practice funeral service. In addition, the unlicensed staff made funeral arrangements in an unlicensed facility, J.B. Realty located at 1335 Pierce Butler Route, St. Paul, Minnesota 55104. Legacy engaged in a deceptive act of false advertising by posting their Legacy establishment license issued by the "Department" in the entryway of J.B. Realty located at 1335 Pierce Butler Route, St. Paul, Minnesota 55104.

15. The Department, through its investigation, determined that unlicensed staff met with the family of a decedent to make funeral arrangements without holding a valid license to practice mortuary science. The unlicensed staff failed to provide a general price list that reflected the accurate pricing of services and merchandise requested by the family and offered by the

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funeral home. The unlicensed staff also failed to obtain the signature of a licensed mortician on the written authorization for embalming at the time of the arrangement, but later had it signed by a licensed mortician who was not present during the arrangements. In addition, the unlicensed staff signed the statement of funeral goods and services without holding a valid license to practice mortuary science.

16. The Department, through its investigation, also determined that Legacy Funeral Home, LLC was making arrangements at J.B. Realty, which is not licensed as a funeral establishment by the Minnesota Department of Health Mortuary Science Section.

17. On January 18, 2017, the Department met with Kou Vang, owner of Legacy Funeral Home, LLC and J.B. Realty and informed him of the unlicensed staff's actions, and the Department's conclusion that unlicensed staff had violated Chapter 149A. Kou Vang understands and acknowledges that, on September 22, 2016, an unlicensed staff person, who is employed by J.B. Realty and works as an office manager at Legacy Funeral Home, LLC made funeral arrangements without holding a valid license to practice funeral service issued by the Minnesota Department of Health Mortuary Science Section. Kou Vang was also informed that despite funeral industry practice unlicensed staff failed to; (1) provide an accurate general price list when initiating discussion with consumer about services and merchandise pricing, (2) obtain written authorization and signature for embalming at the time of the arrangement by a licensed mortician present at arrangements, (3) provided his own signature on the statement of funeral goods and services without holding a valid license to practice funeral service issued by the Department (4) made an arrangement in a facility that has not been issued a license to operate as a funeral establishment by the Department.

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18. Kou Vang was also made aware that it is a deceptive act to post funeral establishment licenses at a location, J.B. Realty, located at 1335 Pierce Butler Route, St. Paul, Minnesota 55104 without that facility being licensed as a funeral establishment by the Department.

19. Based on the Department's findings, Kou Vang understands and acknowledges that unlicensed staff violated Chapter 149A.

20. In order to resolve this matter and avoid the expense and uncertainty of enforcement proceedings under Chapter 149A, Kou Vang as owner, agrees on behalf of himself and Legacy to the following administrative penalties and corrective actions:

A. **Administrative Penalties.** Legacy and Kou Vang as owner of Legacy are hereby assessed a civil penalty of \$8,000 as follows:

i. **Stayed Penalty.** \$2,000.00 of the civil penalty shall be stayed so long as Kou Vang and Legacy are in compliance with the Corrective Action requirements set forth in paragraph 19(B) below. An additional \$3,000.00 of the civil penalty will be stayed if Kou Vang agrees to and assures the Department that Legacy will complete the Corrective Action requirements set forth in paragraph (19)B below. If the Department determines that Kou Vang, unlicensed staff, or Legacy have failed to comply with the Corrective Action requirements of paragraph 19(B) below or have violated Minnesota Statutes § 149A.01, subd. 2; § 149A.20, subd. 1; § 149A.50, subd. 1; § 149A.70, subd. 6; § 149A.71, subd. 1; § 149A.71, subd. 2(a), (c), (e), (f); or § 149A.91, subd. 4, within five years of the

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effective date of this Stipulation, the \$5,000.00 stayed penalty will become due and owing as set forth in paragraph 19(C) below.

- ii. **Penalty Due Now.** Payment of the remaining penalty amount of \$3,000.00 shall be made 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 and Consent Order and shall be sent to the Minnesota Department of Health, Mortuary Science Section.

- B. **Corrective Actions** Kou Vang, and Legacy shall take the following corrective actions:

- i. Legacy must ensure that whenever funeral arrangements are made that a licensed mortician employed by Legacy meets with the family and completes the arrangements, that the licensed mortician in the employ of Legacy provides their signature and license number on the embalming authorization and the statement of funeral goods and services at the time of arrangements, that a general price list with accurate pricing is given to the consumer at the beginning of the discussion of services and merchandise offered. In addition, Legacy shall ensure that all arrangements are made at a facility that has been issued a license from the Department to operate as a licensed funeral establishment.

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- ii. On or before June 15, 2017 Kou Vang is required to: (1). Complete an extensive review of the internal operations for “Legacy”. Legacy is required to notify the funeral establishment who Legacy contracts to complete all their licensed work of the violations of Chapter 149A by unlicensed staff and how it relates directly to the contracted licensed operations. (2). Kou Vang shall provide a written outline defining licensed activities and expectations which are required to be provided by the licensed funeral establishment contracted to complete Legacy’s licensed work to both the establishment completing the work and the Department. (3). Kou Vang shall put in place written policies to ensure that unlicensed staff or any other individual employed by J.B. Realty or Legacy who is not licensed by the Department to practice funeral service does not participate in any licensed activities. The outline shall include detailed plans on how each licensed activity shall be completed. This detailed plan shall be provided to the Department for review and approval.
- iii. Within 30 days of the effective date of this Stipulation, Kou Vang, and Legacy shall provide to the Department a written “Action Plan” outlining the specific processes to be followed to ensure that (1). proper procedures are in place for making funeral arrangements; (2). proper procedures are in place for completing paperwork according to the requirements set forth in Minnesota Statutes §

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149A.01, subd. 2; § 149A.20, subd. 1; § 149A.50, subd. 1; § 149A.70, subd. 6; § 149A.71, subd. 1; § 149A.71, subd. 2(a),(c),(e),(f); and § 149A.91, subd. 4 (3). a properly signed copy of the statement of funeral goods and services is given to the legal next of kin at the conclusion of the funeral arrangement; (4). ensure that only licensed morticians complete licensed work; (5). put written policies in place to ensure that all funeral arrangements only occur in a facility licensed as a funeral establishment by the Department; and (6). Legacy shall create a separate general price list that clearly defines pricing of services and merchandise for infants and children. In addition to completing the requirements of an action plan and submitting it to the Department for review, Kou Vang is required to provide training to all his employees on new policies and procedures regarding the areas of violation. A completed record of the material used for training, content of training, and attendance records will be provided along with the action plan. Upon receipt of the Department's approval of the plan, Kou Vang, and Legacy shall immediately implement the plan at Legacy or any other funeral establishment where they are employed.

- C. **Violation of this Stipulation.** If the Department determines that Kou Vang or Legacy have violated Minnesota Statutes § 149A.01, subd. 2; § 149A.20, subd. 7; § 149A.50, subd. 1; § 149A.70, subd. 6; § 149A.71, subd. 1; § 149A.71, subd. 2 (a), (c), (e), (f); or § 149A.91, subd. 4, within five years of

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the effective date of this Stipulation, the Department shall give Kou Vang, and Legacy written notice by certified mail specifying the violating actions. Unless Kou Vang and Legacy initiate dispute resolution pursuant to paragraph 19(D) below within 30 calendar days after receiving the written notice from the Department, the \$5,000 stayed penalty will become due and owing.

D. **Dispute Resolution.** If a dispute arises regarding the Department's determination, pursuant to paragraph 19(C) above, that Kou Vang, and Legacy have failed to comply with Minnesota Statutes § 149A.01, subd. 2; § 149A.20, subd. 7; § 149A.50, subd. 1; § 149A.70, subd. 6; § 149A.71, subd. 1; § 149A.71, subd. 2 (a), (c), (e), (f); or § 149A.91, subd. 4, Kou Vang, on behalf of himself and/or Legacy, may engage in dispute resolution as follows:

- i. Kou Vang may initiate the dispute resolution process 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 receipt of written notice from the Department concerning violation(s) of Minnesota Statutes § 149A.01, subd. 2; § 149A.20, subd. 7; § 149A.50, subd. 1; § 149A.70, subd. 6; § 149A.71, subd. 1; § 149A.71, subd. 2 (a), (c), (e), (f); or § 149A.91, subd. 4.

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- ii. 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 Kou Vang.
- iii. If the Department and Kou Vang are unable, within twenty-one (21) calendar days after the Department's reply is sent, to reach a resolution of the dispute and reduce such resolution to writing in a form agreed upon by the parties, the Commissioner shall issue a written decision to the parties resolving the dispute.
- iv. Unless Kou Vang commences an action in the Minnesota Court of Appeals to seek judicial review of the Commissioner's decision within sixty (60) calendar days of the date of receipt of the decision, the Commissioner's decision shall become an integral and enforceable part of this Stipulation. For purposes of judicial review, the Commissioner's decision shall be considered a final decision of the Department.

21. This Stipulation shall not in any way limit or affect the Commissioner's authority to proceed against Kou Vang, or Legacy to initiate enforcement action for any alleged violation of Chapter 149A by Kou Vang, or Legacy that is not the subject of this Stipulation.

22. Kou Vang hereby acknowledges, on behalf of himself and Legacy, that he has read, understood, and agreed to this Stipulation and has freely and voluntarily signed it.

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

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24. 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.

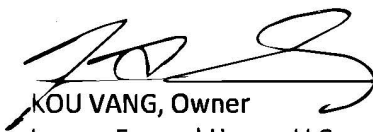
25. This Stipulation shall be binding upon Kou Vang and his successors and assignees, Legacy and its successors and assignees, and the Minnesota Department of Health and its successors and assignees.

26. This Stipulation may not be modified or amended except in writing and any modifications or amendments must be signed by all the parties.

27. This Stipulation is effective on the date it is signed on behalf of the Minnesota Department of Health.

KOU VANG AND LEGACY
FUNERAL HOME

Dated: 9/6/17



KOU VANG, Owner
Legacy Funeral Home, LLC.
255 Eaton Street
Saint Paul, MN 55107

MINNESOTA DEPARTMENT OF HEALTH

Dated: 9/21/17



SUSAN WINKELMANN, JD
Asst. Division Director Health Regulation Division
85 East 7th Place
Saint Paul, MN 55164-0975