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3 **STATE OF OREGON**
4 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**
5 **DIVISION OF FINANCE AND CORPORATE SECURITIES**

6
7 **BEFORE THE DIRECTOR OF THE DEPARTMENT**
8 **OF CONSUMER AND BUSINESS SERVICES**

9 **In the Matter of:**

10 **MICHAEL D. TERWILLIGER DBA**
11 **TWIN OAKS FUNERAL HOME &**
12 **CREMATION SERVICES,**

13 **Respondent.**

14 **PN-09-0021-2**
15 **ORDER LIMITING CERTIFIED**
16 **PROVIDER CERTIFICATE OF**
17 **REGISTRATION,**
18 **AND**
19 **CONSENT TO ENTRY OF**
20 **ORDER**

21 **WHEREAS** the Director of the Department of Consumer and Business Services
22 (hereinafter, "DCBS") conducted an investigation of Michael D. Terwilliger DBA Twin Oaks
23 Funeral Home & Cremation Services (hereinafter "Respondent") and determined that in order to
24 protect Oregon consumers it is necessary to place limitations on Respondent's certification as a
25 prearrangement sales provider under ORS Chapter 97.923 et. seq., Prearrangement and
26 Preconstruction Sales.

27 **WHEREAS** Respondent wishes to resolve and settle this matter with the Director;

28 **NOW THEREFORE**, as evidenced by the authorized signature subscribed on this order,
29 Respondent hereby **CONSENTS** to entry of this order upon the Director's Findings of Fact and
30 Conclusions of Law as stated hereinafter:

31 **FINDINGS OF FACT**

32 The Director **FINDS** that:

33 **A. Parties, Property, and Legal Entities**





1 1) At all times relevant herein a cemetery has been located at 34275 Riverside Drive,
2 Albany, Oregon, 97321 (hereinafter "Twin Oaks Cemetery"). Twin Oaks Cemetery is set on
3 approximately fifteen acres of land. The fifteen acres are divided between two adjoining parcels.
4 The first parcel consists of 4.97 acres and includes all structures. This parcel has the site address
5 34275 Riverside Drive S.W., Albany, Oregon, 97321. The second parcel consists of 10.07 acres,
6 contains no structures, and does not have a site address. Approximately five acres of this parcel
7 are in use as a cemetery. The remaining five acres are available for development as cemetery
8 plots but are not currently in use.

9 2) Michael D. Terwilliger (hereinafter "Terwilliger"), 34275 Riverside Drive, Albany,
10 Oregon, 97321, first registered Twin Oaks Funeral Home & Cremation Services as an assumed
11 business name for Michael D. Terwilliger, with the Oregon Secretary of State's office on
12 September 19, 2001, registration number 040882-90.

13 3) Terwilliger first registered Twin Oaks Memorial Gardens and Mausoleum as an assumed
14 business name with the Oregon Secretary of State's Office on December 5, 2005, registration
15 number 324974-97. Twin Oaks Memorial Gardens and Mausoleum was an assumed business
16 name of Twin Oaks Memorial Gardens and Mausoleum LLC.

17 4) Twin Oaks Memorial Gardens and Mausoleum LLC, 34275 Riverside Drive, Albany,
18 Oregon, 97321, was first registered as a domestic limited liability company with the Oregon
19 Secretary of State's Office on February 9, 2006, registration number 339732-98. Terwilliger is
20 listed as the registered agent. On April 13, 2007, Twin Oaks Memorial Gardens and Mausoleum
21 LLC was administratively dissolved.

22 5) Twin Oaks Memorial Gardens LLC, 34275 Riverside Drive, Albany, Oregon, 97321, was
23 first registered as a domestic limited liability company with the Oregon Secretary of State's
24 Office on January 19, 2007, registration number 407556-96. Terwilliger is listed as the registered
25 agent. On March 21, 2008, Twin Oaks Memorial Gardens LLC was administratively dissolved.



1 6) Twin Oaks Memorial Park Inc., 34275 Riverside Drive, Albany, Oregon, 97321, was first
2 registered as a domestic business corporation with the Oregon Secretary of State's Office on
3 March 2, 1990, registration number 192197-81. Andres M. Hernandez is listed as the president
4 and registered agent. Chantelle Hernandez is listed as the secretary. On April 28, 2006, Twin
5 Oaks Memorial Park Inc. was administratively dissolved.

6 7) None of the legal entities described herein are currently affiliated with Twin Oaks
7 Cemetery. None of the legal entities created by Terwilliger are currently active with the Oregon
8 Secretary of States Office. The only name that is currently active with the Oregon Secretary of
9 States office is Twin Oaks Funeral Home & Cremation Services which is Terwilliger's assumed
10 business name and not a legal entity.

11 **B. Operation of Funeral Home**

12 8) From April 1990 through November 2005, Twin Oaks Memorial Park Inc. owned and
13 operated Twin Oaks Cemetery. Chantelle and Andres Hernandez (hereinafter "the Hernandezes")
14 were the owners and operators of Twin Oaks Memorial Park Inc.

15 9) From July 13, 2003 through the present, Terwilliger has operated a funeral home at Twin
16 Oaks Cemetery. From July 2003, through November 2005, Terwilliger leased the building used
17 for funeral services from Twin Oaks Memorial Park Inc.

18 10) On August 23, 2004, DCBS registered Terwilliger dba Twin Oaks Funeral Home &
19 Cremation Services as a certified provider, registration number 270. A certified provider can
20 make prearrangement sales with certain restrictions. A prearrangement sale includes the sale of
21 funeral merchandise and services before they are needed.

22 **C. Sale of the Cemetery**

23 11) In November 2005, Terwilliger contracted to purchase Twin Oaks Cemetery. Terwilliger
24 purchased the cemetery for \$800,000 from Twin Oaks Memorial Park Inc., owned and operated
25 by the Hernandezes. The contract for the sale of the cemetery included the conveyance of the
land.

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350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



1 12) On November 21, 2005, the Linn County Assessors office recorded the conveyance of
2 approximately fifteen acres of land from Twin Oaks Memorial Park Inc. to Terwilliger and
3 William F. Clark Sr. (hereinafter "Clark").

4 13) Terwilliger and Clark financed \$600,000 of the funds needed for the purchase of the
5 cemetery through a note secured by Twin Oaks Cemetery land. Terwilliger funded the remaining
6 \$200,000 for the purchase of the cemetery through a promissory note owing to the Hernandezes.

7 **D. Foreclosure on Cemetery Property**

8 14) For various and disputed reasons, Terwilliger and Clark did not comply with the payment
9 terms on the \$600,000 loan used to purchase Twin Oaks Cemetery. As a result, on February 19,
10 2008, a judgment of foreclosure was entered in the amount of \$684,900 against Twin Oaks
11 Memorial Park Inc., Terwilliger, and Clark. This judgment of foreclosure can be executed by the
12 holders of the judgment through a sheriff's sale. To date the judgment holders have not executed
13 this judgment through a sheriff's sale.

14 **CONCLUSIONS OF LAW**

15 The Director **CONCLUDES** that:

- 16 1. By failing to make the required payments on the note used to finance the purchase of Twin
17 Oaks Cemetery, Terwilliger demonstrated that he was unable to meet obligations as they came
18 due in violation of ORS 97.948(1)(c).
19 2. Since Terwilliger is unable to meet obligations as they come due in violation of ORS
20 97.948(1)(c) the Director may discipline Terwilliger by suspending, revoking, or placing
21 limitations on Terwilliger's certificate of registration under ORS 97.948(2)(d).

22 **ORDER**

23 The Director, pursuant to ORS 97.948(2)(d) hereby **ORDERS** that Respondent's
24 certificate of registration as a certified provider is limited as follows:

- 25 a. Respondent may only make prearrangements sales personally or dba Twin Oaks
-- Funeral Home & Cremation Services. Respondent shall not make any

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prearrangement or preconstruction sales through any other legal entity including but not limited to Twin Oaks Memorial Gardens and Mausoleum LLC dba Twin Oaks Memorial Gardens and Mausoleum, or Twin Oaks Memorial Gardens LLC.

- b. Respondent is prohibited from selling prearrangement grave markers.
- c. Respondent shall post the attached exhibit A in all locations where sales activity occurs and otherwise ensure that all payments for prearrangement sales merchandise or services are made directly to American Funeral & Cemetery Trust Services, 8305 SW Creekside Place, Suite A, Beaverton, OR 97008-7153.
- d. If Respondent violates any provision of ORS Chapter 97 or associated rules the Director may impose additional discipline including revocation of Respondent's registration as a certified provider

The entry of this Order in no way limits further remedies which may be available to the Director under the Oregon Law.

Dated this 11th day of May, 2009, at Salem, Oregon.

CORY STREISINGER, Director
Department of Consumer and Business Services

David Tatman, Administrator
Division of Finance and Corporate Securities

CONSENT TO ENTRY OF ORDER

I, Michael D. Terwilliger, DBA Twin Oaks Funeral Home & Cremation Services, state that I have read the foregoing Order and that I know and fully understand the contents hereof; that I have been advised of the right to a hearing and of the right to be represented by counsel in this

1 matter; that I voluntarily and without any force or duress, consent to the entry of this Order,
2 expressly waiving any right to a hearing in this matter; that I agree to comply with all laws and
3 rules that govern the operation of cemeteries and funeral homes in the State of Oregon including
4 but not limited to ORS chapter 97 Endowment, Irreducible Fund, and Prearrangement Contracts; I
5 understand that the Director reserves the right to take further actions to enforce this Order or to
6 take appropriate action including revocation of registration upon discovery of other violations of
7 ORS Chapter 97, Endowment, Irreducible Fund, and Prearrangement Contracts; and that I will
8 fully comply with the terms and conditions stated herein.

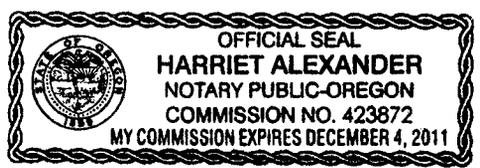
9 I understand that this Consent Order is a public document.

10 Dated this 4th day of May, 2009.

11 Mike Terwilliger
12 Michael D. Terwilliger

13
14 SUBSCRIBED AND SWORN to before me this 4th day of May, 2009.

15
16 Harriet Alexander



17 (Printed Name of Notary Public)
18 Notary Public
19 for the State of:
20 My commission expires: 12/4/2011

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