

BEFORE THE IOWA INSURANCE COMMISSIONER

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IN THE MATTER OF	)	Division Case No. 96703
	)	
LINCOLN MASON,	)	
Sales Agent # SA-000765,	)	<b>CONSENT ORDER</b>
DOB 2/2/XXXX;	)	
and,	)	
MASON LINDHART FUNERAL HOME,	)	
LTD.,	)	
Preneed Seller # PS-000294;	)	
	)	
Respondents.	)	

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This matter came before the Iowa Insurance Commissioner (the “Commissioner”) on the motion of the Iowa Insurance Division (the “Division) and the consent of the Respondents, Lincoln Mason (“Mason”) and Mason Lindhart Funeral Home, Ltd. (“Lindhart Funeral Home”). (Mason and Lindhart Funeral Home are collectively referred to as the “Respondents”). Pursuant to the provisions of Iowa Code Chapter 523A—the Iowa Cemetery and Funeral Merchandise and Funeral Services Act and 191 Iowa Administrative Code Chapter 100—Sales of Cemetery Merchandise, Funeral Merchandise and Funeral Services, the Commissioner enters the following Order.

**I. PARTIES AND JURISDICTION**

1. Pursuant to Iowa Code §523A.801, the Commissioner, Doug Ommen, directly and through his designees administers and enforces Iowa Code Chapter 523A— the Iowa Cemetery and Funeral Merchandise and Funeral Services Act and 191 Iowa Administrative Code Chapter 100—Sales of Cemetery Merchandise, Funeral Merchandise and Funeral Services.

2. Mason is an individual residing at 4 Woodland Drive, Humboldt, Iowa 50548. Mason is licensed in the State of Iowa as a sales agent under number SA-000765.

3. Lindhart Funeral Home is an Iowa corporation with a business address of 612 2nd Avenue South, Humboldt, Iowa 50548. Lindhart FH is licensed as a preneed seller under number PS-000294. Mason is president, secretary, treasurer, and sole shareholder of Lindhart FH.

## II. FINDINGS OF FACT

4. On or about July 22, 2016, Mason and Lindhart FH (“Respondents”) entered into an agreement with Consumer N.C. Pursuant to that agreement, Consumer N.C. was to pay Respondents \$10,000.00 for future funeral merchandise and services. The performance or delivery of such merchandise or services may have occurred more than 120 days following the initial payment.

5. Pursuant to the agreement with Consumer N.C., Respondents were to place the funds received from Consumer N.C. into an irrevocable funeral trust in Consumer N.C.’s name at a financial institution.

6. On July 22, 2016, Consumer N.C. wrote a check in the amount of \$10,000.00 made payable to Lindhart Funeral Home.

7. Respondents did not establish an irrevocable funeral trust in Consumer N.C.’s name at a financial institution or place any of the \$10,000 received from Consumer N.C. in any trust.

8. Consumer N.C.’s July 22, 2016, payment to Respondents was not reported as a preneed transaction on the 2016 preneed sales agent annual report filed by Mason with the Division.

9. Consumer N.C.’s July 22, 2016, payment to Respondents was not reported as a preneed transaction on the 2016 preneed seller annual report filed by Lindhart Funeral Home with the Division.

### **III. CONCLUSIONS OF LAW**

#### **Count I**

##### **Failure to Deposit Funds Into Trust Fund**

10. Iowa Code § 523A.201 requires that unless a purchase agreement is funded by insurance proceeds, an annuity, or a certificate of deposit, a preneed seller must deposit preneed funds received into a trust established at a financial institution.

11. Iowa Code § 523A.202(1) requires that preneed funds be deposited into a trust established at a financial institution within fifteen days after receipt of such funds.

12. Respondents violated § 523A.201 by failing and refusing to establish an irrevocable burial trust in Consumer N.C.'s name.

13. Respondents violated § 523A.202(1) by failing and refusing to deposit the \$10,000.00 received from Consumer N.C. within fifteen days after they were received or thereafter.

#### **Count II**

##### **Failure to File Accurate Annual Reports**

14. Iowa Code § 523A.502A requires preneed sales agents to report annually to the Division all preneed purchase agreements sold by such preneed sales agents during the preceding year.

15. Iowa Code § 523A.204 requires preneed sellers to report annually to the Division all preneed purchase agreements sold by such seller during the preceding year.

16. Mason failed to report the sale described in the above findings of fact in his annual report filed with the Division, thereby violating Iowa Code § 523A.502A.

17. Lindhart Funeral Home failed to report the sale described in the above findings of fact in its annual report filed with the Division, thereby violating Iowa Code § 523A.204.

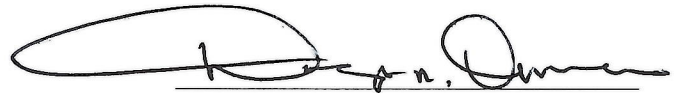
#### IV. ORDER

**WHEREFORE, IT IS ORDERED**, pursuant to the powers granted to the Commissioner of Insurance by Iowa Code Chapter 523A:

- A. Respondents will, within fifteen days from the date of this Order, pay the costs of the investigation and prosecution of this matter in the amount of \$950.00 made payable to the Iowa Insurance Division, said sum to be credited to the Iowa Enforcement Fund to provide funds for insurance enforcement and education;
- B. Respondents will, within fifteen days from the date of this Order, pay a civil penalty in the amount of \$5,000.00 made payable to the Iowa Insurance Division, said sum to be credited to the Iowa Enforcement Fund to provide funds for insurance enforcement and education;
- C. Respondents will, within fifteen days from the date of this Order, report to the Division any and all additional sales of funeral or cemetery merchandise or services with which they or either of them were involved wherein there has been a violation of Chapter 523A of the Iowa Code. Within thirty days from the date of the execution of this Order, the Respondents shall provide the Division with a corrective action plan regarding the remediation of any and all such violations, said corrective action plan to be implemented within thirty days from its approval by the Division;
- D. Respondents will be considered to be under supervision by the Division for a period of two years from the execution of this Order, reporting, on a monthly basis, compliance with all statutes, rules, and regulations regarding sales of funeral and

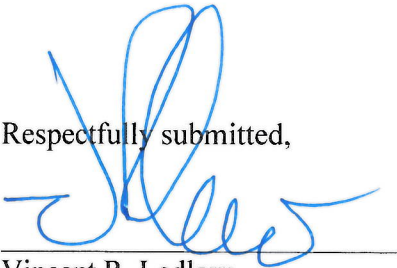
cemetery merchandise and services governed by Chapter 523A of the Iowa Code, in a form to be prescribed by the Division; and,

- E. Respondents will hire and retain full time or multiple part time staff that Respondents will train to maintain appropriate records of all activities regulated by the Division, including those identified in the first exception noted in the preliminary examination report dated December 5, 2017, a copy of which is attached to this Order as Exhibit "A".



DOUGLAS M. OMMEN  
Iowa Insurance Commissioner

Respectfully submitted,



Vincent R. Ledlow  
Iowa Insurance Division  
Two Ruan Center  
601 Locust St. – 4<sup>th</sup> Floor  
Des Moines, Iowa 50309-3738  
Phone: (515) 281-4409  
Deputy Commissioner for Enforcement

Copy to:

Lincoln Mason  
4 Woodland Drive  
Humboldt, Iowa 50548

Mason Lindhart Funeral Home, Ltd.  
612 2<sup>nd</sup> Avenue South  
Humboldt, Iowa 50548  
**RESPONDENTS**

CERTIFICATE OF SERVICE	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause, or their attorney, at their respective addresses disclosed on the pleadings on <u>March 20</u> , 2018.	
By: <input checked="" type="checkbox"/> First Class Mail	<input type="checkbox"/> Personal Service
<input type="checkbox"/> Restricted certified mail, return receipt	<input checked="" type="checkbox"/> Email, by consent
<input type="checkbox"/> Certified mail, return receipt	<input type="checkbox"/>
Signature: <u>Hilary Foster</u> Hilary Foster	

**NOTICE OF PENALTIES FOR WILLFUL VIOLATION OF THIS ORDER**

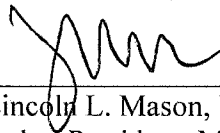
**YOU ARE NOTIFIED** that if you violate this Order, you may be subject to administrative and civil penalties pursuant to Iowa Code §523A.807(3). The Commissioner may petition the district court to hold a hearing to enforce the order as certified by the Commissioner. The district court may assess a civil penalty against you in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation, and may issue further orders as it deems appropriate.

**Consent To Order and Agreement**

I, Lincoln L. Mason, in both my individual capacity and my capacity as president of Mason Lindhart Funeral Home, Respondents in this matter, have read, understood, and do knowingly consent to this Order in its entirety. By executing this Consent, I understand that I am waiving my rights to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

I further understand that this Order is considered a final administrative action that may be reported by the Division to the National Association of Insurance Commissioners and to other regulatory agencies. I also understand that this Order is a public record under Iowa Code Chapter 22, which will be disclosed to other state regulatory authorities, upon request, pursuant to Iowa Code § 505.8(8)(d). I also understand that this Order will be posted to the Division's web site and a notation will be made to the publicly available web site record.

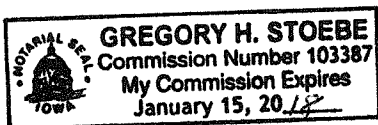
Dated: February 7, 2018

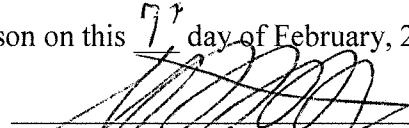


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Lincoln L. Mason, both individually  
and as President, Mason Lindhart Funeral  
Home, Ltd.

4 Woodlawn Drive, Humboldt, Iowa 50501  
Address

Subscribed and sworn before me by Lincoln L. Mason on this 7<sup>th</sup> day of February, 2018.



  
\_\_\_\_\_  
Notary Public