

6. From on or about December 9, 2022, to present, IAFS engaged in acts and practices within the state of Iowa constituting cause for denial of any license application; suspension or revocation of a preneed seller license; the imposition of civil penalties; orders to cease and desist from engaging in such acts or practices; the imposition of costs of the investigation and prosecution of the matter; and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code § 505.8(10), Iowa Code chapter 523A, and rules adopted pursuant to these chapters.

II. FINDINGS OF FACT

7. IAFS is a for-profit business incorporated in Minnesota on October 14, 2022. IAFS filed a Limited Liability Company Application for Certificate of Authority with the Iowa Secretary of State on December 15, 2022. IAFS identified the registered office as 225 W. 3rd Street, Spencer, IA 51301. IAFS filed a Fictitious Name Resolution with the Iowa Secretary of State on December 27, 2022, adopting the fictitious name “Warner Funeral Home & Crematory.”

8. IAFS became licensed as a preneed seller in the state of Iowa on February 21, 2024, under preneed seller license PS-000411.

9. Warner Funeral Home, Inc. ("WFH"), a separate legal entity, was licensed as a preneed seller in Iowa on November 16, 2008, under license number PS-000075.

10. On October 21, 2022, WFH and IAFS entered into an Asset Purchase Agreement (amended December 6, 2022), and on December 9, 2022, WFH sold their preneed assets to IAFS through an Assignment and Assumption Agreement. IAFS renewed WFH's preneed seller license on April 11, 2023, which expires on April 30, 2024. WFH's license is currently on restricted status.

11. On December 30, 2022, WFH shareholders approved a proposal to dissolve their business. On January 3, 2023, WFH filed articles of dissolution with the Iowa Secretary of State.

12. On October 25, 2023, a Division investigator sent an examination notice to WFH. The Division investigator called the business number associated with WFH and talked to an employee of IAFS. The IAFS employee was previously both a shareholder and employee of WFH. During this call, the employee informed the Division investigator that the funeral home and its assets had been sold by WFH to IAFS in December 2022.

Unlicensed Activity

13. IAFS did not apply for a preneed seller license until December 4, 2023.

14. Between December 9, 2022, and November 1, 2023, IAFS sold, promoted, or entered into at least thirty-nine preneed purchase agreements without a license.

15. Of the thirty-nine preneed purchase agreements sold, promoted, or entered into by IAFS, five listed WFH as the preneed seller, and thirty-four listed “Warner Funeral Home,” rather than IAFS or its full fictitious name, “Warner Funeral Home & Crematory.”

16. On April 11, 2023, IAFS submitted to the Division a 2022 preneed seller annual report to the Division with WFH listed as the preneed seller. The report included four preneed purchase agreements that were signed after IAFS purchased WFH. IAFS did not submit a preneed seller annual report for the year 2022 under its own name.

Inaccurate Fees

17. IAFS provides a preneed funeral agreement to its preneed customers. This agreement lists a “State Filing Fee” of twenty-five dollars. This was a misrepresentation of the preneed seller’s monetary obligations under Iowa law. Pursuant to Iowa Code §§ 523A.204 (2) and 523A.814 the preneed seller must pay two separate ten dollar filing fees (a total of twenty

dollars) for their annual reporting requirements for every preneed purchase agreement. Thirty-nine consumers paid IAFS twenty-five dollars for this “State Filing Fee.”

Accepting Payments from Consumers

18. Between January 23 and September 5, 2023, IAFS received premium payments from four consumers for preneed contracts. IAFS received checks from the consumers directly to pay for the insurance policy premiums. The checks were made payable to Warner Funeral Home.

19. Each of the four insurance policies were issued and funded by the purchasers’ payments.

III. CONCLUSIONS OF LAW

COUNT ONE

Unlicensed Preneed Seller

20. Iowa Code § 523A.102(26) provides, in part:

“*Seller*” or “*preneed seller*” means a person doing business within this state, including a person doing business within this state who sells insurance, who advertises, sells, promotes, or offers to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account whether the transaction is completed or offered in person, through the mail, over the telephone, by the internet, or through any other means of commerce.

21. Under Iowa Code § 523A.501(1), a person is prohibited from advertising, selling, promoting, or offering to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account without a preneed seller’s license. *See also* Iowa Admin. Code r. 191—100.11.

22. IAFS acted as a preneed seller by entering into preneed purchase agreements with at least thirty-nine consumers for future cemetery merchandise, funeral merchandise, funeral services, or

a combination thereof, during a period of time in which it was not licensed as a preneed seller in Iowa.

23. IAFS engaged in preneed planning for the benefit of Iowa consumers and accepted funds to fund the selected preneed funeral services and merchandise.

24. IAFS's acts and practices violate Iowa Code § 523A.501, subjecting IAFS to the denial of any license applications; suspension or revocation of their preneed seller and preneed sales agent licenses; the imposition of civil penalties; orders to cease and desist from engaging in such acts or practices; the imposition of costs of the investigation and prosecution of the matter; and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 505.8, 523A.503, 523A.805 and 523A.807, and Iowa Administrative Code rules 191—100.40 and 100.41.

COUNT TWO

Failure to Submit Complete and Accurate Annual Reports

25. Under Iowa Code § 523A.204(1), preneed sellers must file an annual report with the Commissioner on a form prescribed by the Commissioner.

26. The form prescribed by the Commissioner requires a preneed seller to report all new, cancelled, serviced, and existing purchase agreements for the year covered by the report, along with the license numbers of the preneed seller and sales agent that sold the purchase agreement.

27. IAFS sold four preneed sales agreements in 2022. IAFS failed to file an annual report with the Division by the filing deadline of April 15, 2023.

28. IAFS submitted an annual report in 2022 in WFH's name. This report included both sales made by IAFS and WFH. This report did not include the license number of the preneed seller, IAFS, for the agreements IAFS sold.

29. IAFS's acts and practices violate Iowa Code §§ 523A.204 (1) subjecting IAFS to the denial of any license applications; suspension or revocation of their preneed seller and preneed sales agent licenses; the imposition of civil penalties; orders to cease and desist from engaging in such acts or practices; the imposition of costs of the investigation and prosecution of the matter; and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 505.8, 523A.503, 523A.805 and 523A.807, and Iowa Administrative Code rules 191—100.40 and 100.41.

COUNT THREE
Deceptive Acts or Practices

30. Under Iowa Code § 523A.503(1)(e), the Commissioner may deny any license application or immediately suspend, revoke, or otherwise impose disciplinary action for engaging in a deceptive act or practice regarding the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

31. Iowa Code § 523A.204 (2), "a preneed seller filing an annual report shall pay a filing fee of ten dollars per purchase agreement sold during the year covered by the report. Duplicate fees are not required for the same purchase agreement." Furthermore, Iowa Code§ 523A.814 states that, in addition to the filing fee paid pursuant to section 523A.204, subsection 2, a seller filing an annual report shall pay an examination fee in the amount of ten dollars for each purchase agreement subject to a filing fee that is sold after December 31, 2007.

32. IAFS listed in their purchase agreements that there is a twenty-five dollar "State Filing Fee" per purchase agreement. While a preneed seller may assess these fees to consumers as part of a purchase agreement, IAFS collected an additional five dollars per contract and misrepresented the total amount charged to the consumer as a state filing fee.

33. IAFS engaged in deceptive acts or practices regarding the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof by listing in their purchase agreements the company name as “Warner Funeral Home” or “Warner Funeral Home, Inc.” instead of their business name, IAFS, or their dba “Warner Funeral Home & Crematory.”

34. IAFS’s acts and practices violate Iowa Code §§ 523A.503(1)(e), subjecting IAFS to the denial of any license applications; suspension or revocation of their preneed seller and preneed sales agent licenses; the imposition of civil penalties; orders to cease and desist from engaging in such acts or practices; the imposition of costs of the investigation and prosecution of the matter; and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 505.8, 523A.503, 523A.805 and 523A.807, and Iowa Administrative Code rules 191—100.40 and 100.41.

COUNT FOUR
Accepting Premiums for Policies

35. Iowa Code § 523A.401(4) states when a preneed funeral purchase agreement is funded by an insurance policy, any premium paid by the purchaser shall be made directly to the insurance company issuing the policy.

36. IAFS directly received at least four payments from preneed purchasers who funded their preneed purchase agreement with an insurance policy. Additionally, the premium checks were made payable to Warner Funeral Home rather than to the insurance company who issued the policy.

37. IAFS’s acts and practices violate Iowa Code §§ 523A.401(4) and 523A.814, subjecting IAFS to the denial of any license applications; suspension or revocation of their preneed seller and preneed sales agent licenses; the imposition of civil penalties; orders to cease and desist from engaging in such acts or practices; the imposition of costs of the investigation and prosecution of

the matter; and any other corrective action the Commissioner deems necessary and appropriate pursuant to Iowa Code §§ 505.8, 523A.503, 523A.805 and 523A.807, and Iowa Administrative Code rules 191—100.40 and 100.41.

IV. ORDER

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

- A. IAFS shall, by the filing deadline of April 15, 2024, file a complete annual preneed seller report for 2023 that includes the four preneed agreements sold by IAFS in 2022;
- B. Within sixty (60) days from the date of this Order, IAFS shall re-execute or execute amendments to the 39 agreements referenced herein to include IAFS's legal business name and preneed seller license number and provide proof to the Division upon completion. These re-executed or amended agreements must state that IAFS agrees to provide all of the services specified in the relevant existing preneed agreements;
- C. In the event of the death of any impacted consumer prior to amending the existing agreements or prior to the execution of a new agreement as outlined in Subsection B of this Order, IAFS shall provide all of the services specified in the relevant existing preneed contract;
- D. IAFS shall, contemporaneously with this Order, pay a civil penalty in the amount of \$5,000.00. Payment shall be made payable to the Iowa Insurance Division, to be credited to the Commerce Revolving Fund pursuant to Iowa Code § 523A.807, and Iowa Administrative Code rule 191—100.41;

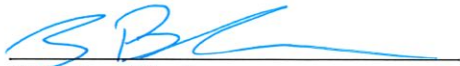
- E. IAFS shall, contemporaneously with this Order, pay the amount of \$1,926.50 for costs of investigation and prosecution pursuant to Iowa Code § 505.8. Payment shall be made payable to the Iowa Insurance Division, to be credited to the Iowa Insurance Enforcement Fund to provide funds for insurance enforcement and education;
- F. IAFS shall not misrepresent the annual report filing and examination fees on any new preneed sales contracts; and
- G. These orders may be enforced under the Iowa Code chapters 505 and 523A and additionally, by any collection remedies available to the State of Iowa Department of Revenue for unpaid penalties and other ordered monetary amounts.

SO ORDERED on this 22nd day of February, 2024.



DOUGLAS M. OMMEN
Iowa Insurance Commissioner

Respectfully submitted,



Zebulon Black
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: (515) 654-6564
Email: zebulon.black@iid.iowa.gov



Joseph A. Fraioli
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Des Moines, Iowa 50315
(515) 654-6562
Joseph.fraioli@iid.iowa.gov
ATTORNEYS FOR THE DIVISION

Copy to:

Iowa Area Funeral Services, LLC
d/b/a Warner Funeral Home & Crematory
225 W. 3rd Street,
Spencer, IA 51301

RESPONDENT

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 February 23, 2024.

By: First Class Mail Personal Service
 Restricted certified mail, return receipt Email, by consent
 Certified mail, return receipt _____

Signature: Brooke Hohn
Brooke Hohn

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 chapter 523A. 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 and may issue further orders as it deems appropriate.

NOTICE OF IMPACT OF FINAL ORDER


A final order of license probation, suspension, restriction, or revocation or a cease-and-desist order may adversely affect other existing business or professional licenses and may result in license revocation or disciplinary action.

A final order in an administrative action does not resolve any potential criminal or civil violations or causes of action that might arise from the same or similar conduct that is the subject of this order. It may result in criminal law enforcement authorities, including the fraud bureau of the Iowa Insurance Division, pursuing a criminal investigation or prosecution of potential criminal law violations.

CONSENT TO ORDER AND AGREEMENT

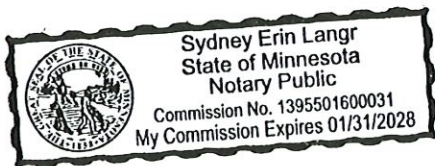
I, Jason Burlage, in my capacity as owner and an authorized agent of Iowa Area Funeral Services, LLC. ("IAFS") in this matter, have read, understood, and do knowingly consent to this Order in its entirety. By executing this Consent, I understand that I am waiving IAFS's right to a hearing, to confront and cross-examine witnesses, to produce evidence, and to judicial review.

I further understand this Order is considered a final administrative action that will be reported by the Division to the National Association of Insurance Commissioners and to other regulatory agencies. I also understand this Order is a public record under Iowa Code chapter 22 and information may be shared with other regulatory authorities or governmental agencies, pursuant to Iowa Code § 505.8(8)(d), 523A.808, and 523A.813. I also understand this Order will be posted to the Division's website and a notation will be made to the publicly available website record that administrative action has been taken against IAFS.


Iowa Area Funeral Services, LLC
d/b/a Warner Funeral Home & Crematory
By Jason Burlage, Owner

501 Nebraska Ave. Breckenridge, MN
Address of Signatory

Subscribed and sworn before me by Jason Burlage Owner of Iowa Area Funeral Services, LLC d/b/a Warner Funeral Home Crematory, on this 14 day of February, 2024.



Sydney Langr
Notary Public for the State of Minnesota