

**BEFORE THE IOWA INSURANCE COMMISSIONER**

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<b>IN THE MATTER OF</b>	)	<b>Case No.</b> _____
<b>Leonard J. Linn and</b>	)	<b>CONSENT ORDER</b>
<b>The Linn's Family Services, Inc.</b>	)	
<b>dba Linn's Funeral Home &amp;</b>	)	
<b>Monument Sales,</b>	)	
<b>License PS-00171</b>	)	

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The Iowa Insurance Division ("Division") and Leonard J. Linn and The Linn's Family Services, Inc. dba Linn's Funeral Home & Monument Sales, ("Respondents") enter into this Consent Order ("Order"), pursuant to Iowa Code section 17A.10 and 191 Iowa Administrative Code 106.3(5).

**Parties and Jurisdiction**

1. Commissioner of Insurance Nick Gerhart administers the Iowa Cemetery and Funeral Merchandise and Funeral Services Act, Iowa Code chapter 523A (2013).
2. The Division has jurisdiction of this matter pursuant to Iowa Code chapters 17A and 523A.
3. Leonard J. Linn is an individual residing in Iowa Falls, Iowa. He is a licensed funeral director under chapter 156 and as a preneed sales agent under Iowa Code section 523A.502.
4. The Linn's Family Services, Inc. dba Linn's Funeral Home & Monument Sales (the "Funeral Home") is an Iowa corporation with its principal offices in Iowa Falls, Iowa and is a licensed funeral establishment under chapter 156 and hold license number PS-00171 as a preneed seller under Iowa Code section 523A.501. Leonard J. Linn is an owner and President of the Funeral Home. Jean A. Linn is an owner and Vice-President of the Funeral Home.

## Factual Background

5. The Division commenced a routine examination of Respondents under chapter 523A in June of 2013. While the examination and associated investigation continue, it appears Respondents are substantially out of compliance with Iowa Code chapter 523A.
6. Respondents have cooperated with the examination and investigation and agree they have not fully complied with Iowa Code chapter 523A.

## Findings

7. Trusting Violations. On multiple occasions, Respondents received checks for preneed funeral services or funeral or cemetery merchandise, and failed to place the funds in trust. Instead, Respondents deposited the funds in the Funeral Home's checking account and spent consumer's funds in the ordinary course of business. Respondents kept records of these transactions and did not hide the transactions from Division staff. Trust violations revealed in the examination include:
  - a. The sum of \$2,827.40 was received from GW in September of 2007 and was not placed in trust.
  - b. The sums of \$1,000.00 and \$1,118.05 were received from GB in September of 2011 and were not placed in trust.
  - c. The sum of \$5,000.00 was received from KR in July of 2012 and was not placed in trust.
  - d. The sum of \$500.00 was received from MW in September of 2010. MW died and the Funeral Home has provided services.
8. False Filings. The Funeral Home filed annual reports with the Division that were incomplete and did not accurately report the Funeral Home's preneed sales. These false filings include:
  - a. A preneed contract executed by the Funeral Home and MS on or about 8/31/2010 in the amount of \$9,322.05 was not reported on the Funeral Home's 2010 Annual Report for Pre-Need Seller. MS died in 2011 and the withdrawal

was not reported on the Funeral Home's 2011 Annual Report for Pre-Need Seller.

- b. A preneed contract executed by the Funeral Home and DJ on or about 10/26/2010 in the amount of \$9,259.90 was not reported on the Funeral Home's 2010 Annual Report for Pre-Need Seller. DJ died in 2011 and the withdrawal was not reported on the Funeral Home's 2011 Annual Report for Pre-Need Seller.

#### **Violations of Iowa Code chapter 523A**

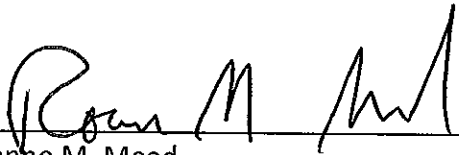
9. Respondents accepted payments in connection with preneed purchase agreements or otherwise representing the prepayment for goods and services covered by Iowa Code section 523A.201(2) without placing the funds in trust. They commingled trust funds with other funds of the preneed seller and spent consumer trust funds for personal business purposes. These acts violate a number of provisions of Iowa Code chapter 523A, including sections 523A.201 and 523A.202.
10. Respondents filed false and misleading filings with the Division in violation of Iowa Code section 523A.701 (2013).
11. All violations of Iowa Code Chapter 523A provide grounds to revoke Respondents' preneed seller and sales agent licenses, pursuant to Iowa Code section 523A.503(1)(a)(2013).
12. All violations are violations of the Iowa Consumer Fraud Act, Iowa Code section 714.16(2)(a), pursuant to Iowa Code section 523A.807(1).
13. Respondents do not admit they acted willfully, but they are informed that some of the violations described above may under certain circumstances constitute fraudulent practices under Iowa Code section 523A.703(1) and (2) (2013).
14. It is appropriate to issue an Order and impose sanctions on the Respondents.

#### **IT IS THEREFORE ORDERED:**

- A. Respondents shall be on probation for a term of three years from the date of this Order.

- B. During the probation period, Respondents shall adopt appropriate operating procedures and submit monthly reports in a format determined by the Division.
- C. Respondents shall reimburse the Division for a portion of its costs in this matter in the amount of \$1,500.00. This amount shall be paid within 30 days of the date this Order.
- D. Respondents shall cease and desist taking any actions that violate Iowa Code chapter 523A and shall, in particular, strictly comply with all obligations with respect to unfulfilled, funded preneed contracts.

Signed this 19 day of June 4, 2014



A handwritten signature in black ink, appearing to read "Rosanne M. Mead", is written over a horizontal line.

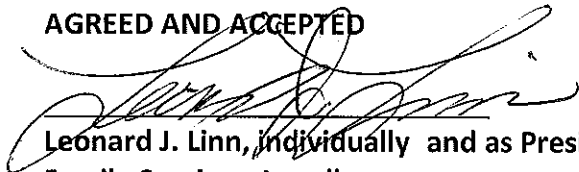
Rosanne M. Mead

Assistant Insurance Commissioner and Securities Administrator

**Consent and Waiver of Rights**

1. Respondents acknowledge that they have the right to a contested case hearing on the charges set forth in this Order and that they have been advised to secure legal counsel when considering the terms of this Order.
2. Respondents freely and voluntarily waive all rights to hearing and all attendant rights, including the right to seek judicial review. This Order is a disciplinary action against Respondent's licenses, the Division's final agency action in a contested case, and the resolution of the Division's administrative action on known violations of Iowa Code chapter 523A.
3. This Order is a public record available for inspection and copying in accordance with the requirements of Iowa Code chapter 22 (2013). The Order shall be placed on the Division's publicly available website.
4. This Order shall be provided to the Iowa Board of Mortuary Science, the Attorney General and the appropriate county attorney. Respondents understand that this Order does not preclude these officials from taking action if they have grounds to do so, and shall not impair the private right of action of any person. Respondents do not by agreeing to this Order admit liability to any other official or private party.
5. Respondents acknowledge and expressly consent to the Division's continuing jurisdiction in all matters related to the trust funds subject to Iowa Code chapter 523A. Respondents understand that if grounds exist to do so, the Division can initiate a receivership or other appropriate action to preserve the safety of trust funds.

**AGREED AND ACCEPTED**



**Leonard J. Linn, individually and as President of The Linn's  
Family Services, Inc. dba**

**Linn's Funeral Home & Monument Sales**

Date JUNE 13, 2014

**And by**



**Jean A. Linn, individually**

**And as Vice-President of the Linn's  
Family Services, Inc. dba**

**Linn's Funeral Home &  
Monument Sales**

Date 6-13-2014

