



and accounts receivable, among other records. Ginn did not comply with the request by the deadline of September 23, 2010, and called the Examiner to request an extension. After four (4) deadline extensions, on October 6, October 8, October 13, and October 26, 2010, Ginn did not provide the requested records. The Examiner conducted an on-site examination on November 9, 2010, and the requested records were not available for review, nor were they provided after a deadline extension to November 17, 2010.

4. The Examiner was provided three (3) contracts for review. The purchasers and dates of the contracts provided are as follows: Bessie E. Weary – April 17, 2007; Murphy Thompson-Taylor – October 5, 2009; Elgina Thompson-Taylor – October 5, 2009. No bank records were produced and no evidence was provided that the funds from the three contracts were deposited into any account or funded by trust, insurance or evidenced by warehouse receipt.
5. The contract for Bessie E. Weary does not itemize the merchandise, cost, or services that are included in the \$4,375.00 total.
6. The Annual Report for Ginn filed with the Secretary of State's Office March 31, 2010, disclosed two (2) contracts solely funded by Trust in 2009, however, these two contracts were not available to be reviewed.
7. There is no evidence that these two contracts, or any other contracts, are funded by Magnolia Guaranty Life Insurance Company, as is stated on pages 3 and 4 of the contract form approved by, and on file with, the Division.
8. A letter was sent by the Division to Ginn dated November 18, 2010, which set forth the preliminary findings of the Examiner and offered Ginn an opportunity to

present documentation or other evidence in rebuttal. Ginn requested more time, but never provided documentation or other evidence in rebuttal either prior to or at the hearing in this matter.

9. A Notice of Hearing for Consideration of Administrative Penalties and/or Revocation of Preneed License was sent to Ginn on March 31, 2011. Ginn attended the hearing on May 4, 2011, where he cross examined the witness for the Division and presented evidence. The Hearing Officer requested additional documents from Ginn.
10. Following the Hearing, Ginn submitted three (3) additional documents in response to the request by the Hearing Officer as follows:
  - a. A checking account statement from Citizens Bank, Tylertown Branch, styled, "Ginn Funeral Home Incorporated Prearrangement Trust Account", dated April 29, 2011, reflecting a balance of \$1,845.08.
  - b. A twelve (12) month certificate of deposit opened on May 21, 2010, maturing on May 21, 2011, with Citizens Bank, Tylertown Branch, as holder, with the time deposit issued to Ginn Funeral Home Incorporated. Face amount of the certificate in May 2010 was \$4,900.96.
  - c. A Preneed Agent's Registration issued to Mr. Joseph Bernard Ginn by the Office of the Secretary of State on June 18, 2002.

#### **CONCLUSIONS OF LAW**

11. Three (3) Preneed contracts sold by Ginn were not funded by trust, insurance or evidenced by a warehouse receipt in violation of Mississippi Code Annotated Section 75-63-55(3). This action represents three (3) separate violations.

12. All records requested by the Secretary of State's Office were not produced by Ginn, nor were they available for review at the on-site examination, in violation of Mississippi Code Annotated Section 75-63-73.
13. The two (2) contracts reported by Ginn in their 2009 Annual Report were not available to be viewed by the Examiner, in violation of Mississippi Code Annotated Section 75-63-57. This action represents two (2) separate violations.
14. On at least one occasion, Ginn did not list all the services covered by the contract, in violation of Mississippi Code Annotated Section 75-63-57(2).

Pursuant to the authority granted by Mississippi Code Annotated Section 75-63-69(1)(b)(i), it is **ORDERED** that an administrative penalty in the amount of Seven Thousand Dollars (\$7,000) shall be paid to the Secretary of State for the above described violations against Ginn Funeral Home, Incorporated.

Pursuant to the authority granted by Mississippi Code Annotated Section 75-63-56(1)(a), the Preneed License Registration Number M-0156 issued to Ginn Funeral Home, Incorporated 219 Highway 98 West, P.O. Box 249, Tylertown, MS, 39667, is hereby **REVOKED**, due to substantial noncompliance with numerous sections of the Preneed Cemetery and Funeral Registration Act, poor cooperation with the Division, no assurance of future compliance and the potential for harm to Ginn customers.

**SO ORDERED and ADJUDGED.**

This, the 31 day of July, 2011.

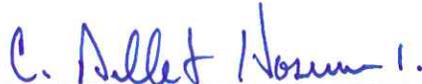
  
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C. DELBERT HOSEMANN, JR.  
Secretary of State  
In His Official Capacity

EXHIBIT A

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE  
BUSINESS REGULATION AND ENFORCEMENT DIVISION**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>Ginn Funeral Home, Inc.</b>	)	<b>Administrative Proceeding</b>
<b>219 Highway 98 West</b>	)	<b>Number: P-11-0028</b>
<b>Tylertown, Mississippi 39667</b>	)	
	)	
<b>Respondent</b>	)	

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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As Hearing Officer appointed in this Administrative Proceeding, I have reviewed certain documents, including, but not limited to, Notice of Hearing for Consideration of an Administrative Penalty and/or Revocation of Preneed License dated March 28, 2011, Witness List from the Regulation and Enforcement Division of the Office of the Secretary of State ("Division") dated May 20, 2011, exhibits admitted at the hearing on May 4, 2011, additional documents provided by Respondent on May 6, 2011, applicable statutes and regulations.

An administrative hearing was held at the Offices of the Secretary of State, 700 North Street, Jackson, Mississippi 39205, second floor conference room, on May 4, 2011, at which time I heard testimony from Cina R. Lucas for the Division and from Joseph B. Ginn for the Respondent. ("Ginn").

Having considered all testimony, argument of Respondent, argument of Counsel for the Division, all Exhibits admitted at the Administrative Hearing (Exhibits No. 1-4), additional documents provided by Respondent (3) and applicable law, I hereby find:

### FINDINGS OF FACT

1. The Secretary of State has the authority to administer and to provide for the enforcement of all provisions of the Pre-Need Cemetery and Funeral Registration Act (hereinafter "Act"), Mississippi Code of 1972 (Annotated) § 75-63-51 et seq. (hereinafter "Code") which governs persons operating in the Pre-Need funeral business in the State of Mississippi.
2. As a provider of pre-need funeral services, Ginn is subject to the requirements of the Act and regulations promulgated thereunder.
3. On September 8, 2010 a letter was sent by Cina R. Lucas, Examiner for the Division to Ginn requesting certain documents in accordance with a routine pre-need examination. The Examiner requested Pre-need written contracts, trust statements, checks, receipts, bank statements, check registrations, ledger books, and accounts receivable, among other records. Ginn did not comply with the request by the deadline of September 23, 2010 and called the Examiner to request an extension. After four (4) deadline extensions, on October 6, October 8, October 13 and October 26, 2010, Ginn did not provide the requested records. The Examiner conducted an on site examination on November 9, 2010 and the requested records were not available for review, nor were they provided after a deadline extension to November 17, 2010.
4. The Examiner was provided three (3) contracts for review. The purchasers and dates of the contracts provided are as follows: Bessie E. Wcary- April 17, 2007, Murphy Ginn- undated and Elgina Thompson Tayloer- October 5, 2009. No bank records were produced and no evidence was provided that the funds from the three contracts were deposited into any account or funded by trust, insurance or evidenced by warehouse receipt.

5. The contract for Bessie E. Weary does not itemize the merchandise, cost, or services that are included in the \$4,375.00 total.

6. The Annual Report for Ginn filed with the Secretary of State's Office March 31, 2010, disclosed two (2) contracts solely funded by Trust in 2009, however, these two contracts were not available to be reviewed.

7. There is no evidence that these two contracts, or any other contracts, are funded by Magnolia Guaranty Life Insurance Company, as is stated on pages 3 and 4 of the contract.

8. A letter was sent by the Division to Ginn dated November 18, 2010 which set forth the preliminary findings of the Examiner and offered Ginn an opportunity to present documentation or other evidence in rebuttal. Ginn requested more time, but never provided documentation or other evidence in rebuttal either prior to or at the hearing in this matter.

9. A Notice of Hearing for consideration of administrative penalties and/or revocation of pre-need license was sent to and received by Ginn on March 31, 2011. Ginn attended the Hearing on May 4, 2011 where he cross examined the witness for the Division and presented evidence. The Hearing Officer requested additional documents from Ginn.

10. Following the Hearing, Ginn submitted three (3) additional documents in response to the request by the Hearing Officer as follows:

a. A checking account statement from Citizens Banks, Tylertown Branch, styled, "Ginn Funeral Home Incorporated Prearrangement Trust Account," dated April 29, 2011, reflecting a balance of \$1,845.08.

b. A twelve (12) month certificate of deposit opened on May 21, 2010 maturing on May 21, 2011 with Citizens Bank, Tylertown Branch, as holder, with the time deposit issued to Ginn Funeral Home Incorporated. Face amount of the certificate in May 2010

was \$4,900.96.

c. A Pre-Need Agent's Registration issued to Mr. Joseph Bernard Ginn by the Office of the Secretary of State on June 18, 2002.

CONCLUSIONS OF LAW

1. Three (3) Pre-need contracts sold by Ginn were not funded by trust, insurance or evidenced by a warehouse receipt in violation of § 75-63-55(3) of the Mississippi Code of 1972 (Annotated). This action represents three (3) separate violations.

2. All records requested by the Secretary of State's Office were not produced by Ginn, nor were they available for review at the on-site examination, in violation of Mississippi Code 1972 (Annotated) § 75-63-73.

3. The two (2) contacts reported by Ginn in their 2009 Annual Report were not available to be viewed by the Examiner, in violation of Mississippi Code 1972 (Annotated) § 75-63-57. This action represents two (2) separate violations.

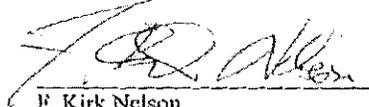
4. On at least one occasion, Ginn did not list all services covered by the contract, in violation of Mississippi Code 1972 (Annotated) § 75-63-55(2).

**THEREFORE**, an administrative penalty in the amount of \$7,000 is hereby recommended against Ginn Funeral Home, Inc. for the seven separate violations, to be paid to the Secretary of State, who shall also be reimbursed for all costs and expenses incurred in the investigation of the violations and the institution of the administrative proceedings as a result thereof.

**FURTHER**, due to substantial noncompliance with numerous sections of the Pre-Need Cemetery and Funeral Registration Act, poor cooperation with the Division, no assurance of

future compliance and the potential for harm to Ginn customers, it is hereby recommended that the Pre-Need License of Ginn Funeral Home Inc. be revoked by the Secretary of State.

Respectfully submitted, this the 3 day of June, 2011.



F. Kirk Nelson  
Hearing Officer