



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Division of Marketing Practices

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December 13, 2012

Mr. Stephen Dirksen, General Counsel  
North Carolina Board of Funeral Service  
1033 Wade Ave. - Suite 108  
Raleigh, North Carolina, 27605-1158

Dear Mr. Dirksen:

This letter responds to your request for clarification of the circumstances under which a casket offered by a funeral provider must be listed in the provider's Casket Price List ("CPL"). The question comes from a provider in your state that wishes to test market a casket to select clients. The provider will store the casket on its premises, but not in public view in its selection room, and will show the casket only to clients it believes might wish to purchase it.

As you know, the Funeral Rule compliance guide states that funeral providers "need list only those caskets that you *usually offer* for sale that do not require special ordering."<sup>1</sup> The question you raise relates to how best to read this phrase. In staff's view, the meaning is clear: any casket that does not require special ordering is "usually offered" for sale. Any contrary interpretation would defeat the purposes of the CPL requirement; namely, ensuring that all consumers receive information about every pricing alternative and casket choice a provider can readily provide, and at the same time preventing a provider from concealing the availability of less expensive caskets and offering them only to clients unable to afford a more expensive alternative.

Accordingly, because the provider that prompted your inquiry will store the caskets it wishes to test market, and will not need to special order them, they must be listed on its CPL for as long as the provider offers them to any of its clients. The fact that the provider may intend to offer the casket only to a select group of customers does not mean that it does not "usually offer" the casket for sale.

As you know, the views expressed in this letter are those of the FTC staff. They have not been reviewed, approved, or adopted by the Commission, and they are not binding on the Commission or any individual Commissioner. However, they do reflect the views of FTC staff

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<sup>1</sup> FTC, *Complying With the Funeral Rule* (2004), p. 14 (emphasis in original).

Mr. Stephen Dirksen  
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charged with enforcement of the Funeral Rule. Staff Funeral Rule opinions are now routinely posted on the FTC website at <http://www.ftc.gov/bcp/edu/microsites/funerals/staffopinions.shtm>.

Sincerely,

/s/

Craig Tregillus  
Funeral Rule Coordinator