



FAMILY FUNERALHOME  
ASSOCIATION

August 9, 1999

Mr. Donald S. Clark - Secretary  
Federal Trade Commission  
Room H- 159  
600 Pennsylvania Avenue – NW  
Washington, DC  
USA 20580



Re:16CFR Part 453

Dear Mr. Clark:

Please find enclosed five copies of the Family Funeral Home Association's (FFA) brief, Why America Needs an Emancipation Proclamation for Grieving Families.

The FFA is a growing alliance of family owned funeral homes from across North America. The Association works closely with faith communities, public interest organizations and consumer advocate groups, to develop sound public policies concerning funerals and cemeteries. The FFA was recently invited to give testimony before the New York City Department of Consumer Affairs. I wish at this time to commend the city's efforts in this regard, and the leadership shown by Mayor Rudolph Giuliani. The Commission is well advised to pay close attention to Commissioner Jules Polonetsky's groundbreaking report The High Cost of Dying.

I wish to confirm our desire to participate in the FTC's Public Workshop Conference, confident that our research and consultations to date will be of assistance to the Federal Trade Commission.

Yours truly,

Thomas Crean  
Chairman

Cc: Mercedes Kelly

Encl: Why America needs an Emancipation Proclamation for Grieving Families  
(5copies)

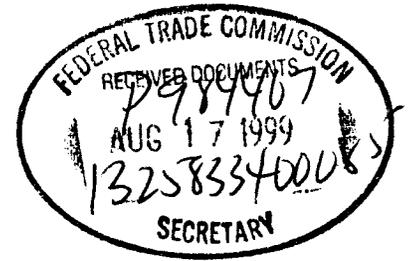
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## Why America Needs An Emancipation Proclamation for Grieving Families

The Family Funeralhome Association  
Submission to the Federal Trade Commission  
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# Why America Needs An Emancipation Proclamation for Grieving Families

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The Family Funeralhome Association (FFA) is a growing alliance of family owned funeral homes, faith communities and public interest advocates. We are building common ground for effective funeral and cemetery policy by stressing the singular vulnerability of families at the time of grief. At the same time, it is clear that funeral care is as essential a service as health care. These basic affirmations are at the heart of the FFA's consulting document, *The Bereavement Bill of Rights*. We encourage the FTC to give close consideration to *The Bereavement Bill of Rights* as a corner stone for improved consumer protection.

## BACKGROUND

"People simply can't afford to bury their loved ones."

Jules Polonetsky, Commissioner  
New York City Department of Consumer Affairs

The first rule of the Funeral Rule must be to protect families, especially when they are at their weakest. In the midst of grief even the strongest family can fall prey to abusive and unfair trade practices. Our consultations and research to date reveal that all families—and especially those belonging to racial, ethnic and religious minorities—are exposed to deliberate, invasive and debilitating exploitation by large funeral conglomerates. It is the strict duty of a civil society to make the time for mourning secure and free from the threat of predatory enterprises. Every family must be assured that they will not be victimized when they are planning for death or stricken with grief. The Funeral Rule must be written and enforced to ensure all families can take better care of themselves with dignity and peace of mind.

For generations, funeral homes owned and operated by families were at the heart of neighborhoods across America. Their livelihood depended on their honor, on the capacity to provide an essential service at a fair price. In the absence of regulations, independent funeral homes were kept accountable because the families that owned them were known in their communities. They were friends and neighbors who volunteered and worshipped with you. Knowing the identity of the funeral service provider was indispensable to keeping the funeral home an ethical and valuable asset to the community.

In many small towns and urban centers consolidation seems to have made this obsolete. Over the past thirty years, a significant number of family owned funeral homes have been purchased by publicly traded corporations. This has happened in stealth, with funeral conglomerates purchasing the local funeral home without disclosing the change in ownership. As Miriam Horn reported in US News & World Report:

The corporations have expanded their dominion virtually unnoticed, since when they buy a home they typically keep the old name and even hire the previous owner, making it appear that the home is still locally owned. (William Heiligbrodt, president and chief operating officer of [Service Corporation International], said the company does not put the SCI name on homes it acquires "because we never have. It's in our best interest to do it that way.")

Once taken over, the funeral parlours are then locked into a clustering system. In addition to sharing administrative services and infrastructure, clustering allows the conglomerates to process bodies for burial in a manner Henry Ford would be proud of. In the words of Jules Polonetsky, the Consumer Affairs Commissioner for New York City,

Consumers are not aware that their loved ones are being transported around the city after being brought to the funeral home or on the way from the place of death to the funeral home.

This practice results in considerable cost savings to the funeral conglomerate. However, it is done without the consent of the bereaved family. In some cases, as evidenced at New York City's hearings into funeral practices, this lack of disclosure can result in ritual defilement.

Consolidation has deprived families of the right to know who owns the funeral home, and can mislead them as to where the deceased will be prepared for burial. It has also made comparison shopping all but meaningless in many areas. Consolidation has eliminated competition while preserving the illusion of a diverse and responsive market of funeral service providers. Jules Polonetsky observes that SCI owns five out of the six Jewish funeral homes in Manhattan, and half of the Jewish funeral homes in New York City as a whole. "If the funeral industry continues to consolidate without any further oversight," Commissioner Polonetsky cautions "shopping around New York City may become a useless task."

The elimination of competition has caused radical increases in the cost of a funeral. Services provided by funeral conglomerates are significantly more expensive than funerals at a family owned funeral home:

- Judith Newman writes in *Harper's Magazine* that in Washington State, where 49 percent of the funeral homes are owned by funeral chains, the cost of funerals has risen by as much as 65 percent since 1992 "because the real client is no longer the family of the deceased but the stockholder."
- Jessica Mitford's research shows that in Houston, where SCI owns 75 percent of the market, a conglomerate funeral costs 60 percent more than a funeral at a family funeral home. In Washington, D.C., Mitford observed funeral conglomerates charge 40 percent more than family funeral homes.
- According to New York City's Department of Consumer Affairs, an SCI funeral costs 26 percent more than a funeral at a family funeral home. A Jewish funeral at a conglomerate owned funeral home in Manhattan, the DCA reports, costs 50 percent more than a Jewish family funeral home.

Regrettably, federal regulations have done little to check consolidation and its deleterious impact. Since coming into effect in 1984, the Funeral Rule has not been a safe harbor for grieving families. Jessica Mitford, the harshest critic of funeral services, observed shortly before her death,

The FTC has in important respects capitulated to industry lobbyists. The most devastating change is the unprecedented phenomenon of corporate takeovers of formerly independent funeral establishments, a development that is fast eradicating any perceived advantages to the hapless funeral purchaser. (*Vanity Fair*, March 1997)

The past fifteen years have seen a race to the bottom, as large funeral conglomerates vie with each other for maximized gains at the expense of some of the most vulnerable members of our

communities. While the Funeral Rule has been on watch, funeral conglomerates have been at liberty to conceal their identity and gouge exorbitant prices from families. Death has become an opportunity for profit taking instead of service, a time of anxiety instead of restored peace, as conglomerates lay a significant financial burden on the shoulders of the bereaved. America needs an emancipation proclamation for grieving families.

## RECOMMENDATIONS

The FFA commissioned Market Facts to review America's attitudes concerning existing levels of consumer protection. The poll used as its model regulatory reforms initiated by New York City Mayor Rudolph Guiliani. Consumers across the country and in every demographic group expressed strong consensus on the need for meaningful consumer protection. Support ranged from a low of 75.3 percent in the 18 to 24 age group, to a high of 89.1 percent in the 45 to 54 age group. On the whole, 82.8 percent Americans call for rigorous and enforceable funeral regulations, including anti-trust investigations, clear pricing of all funeral costs, and full disclosure of who really owns the neighborhood funeral home. The poll shows only 5.3% of consumers place trust in funeral conglomerates, with 84.2% preferring to do business with family owned funeral homes. Market Facts conducted the random telephone survey of 1,000 Americans from May 14-16, 1999. It has accuracy rate of +/- 3.1%.

This polling data supports the FFA's Five Points for Emancipation, a consensus we have developed both among family owned funeral homes, religious leaders and community organizations.

- *Truth in Name.* Our research shows consumers want to know whether they are dealing with a family owned and operated funeral home or a chain. Require clear and conspicuous disclosure of ownership when a funeral home is owned, in whole or in part, by a publicly traded corporation; and
- *Truth in Pricing.* (a) Despite existing provisions in the Funeral Rule, families must effectively sit through a sales pitch in order to get a sense of what the funeral will cost. The General Price List should be on public display and readily available. (b) Require clear itemization for all goods and services with no hidden fees; and
- *Truth in Sales.* Prohibit, or at the very least require disclosure of, the use of commissioned sales staff in funeral homes. This practice is the engine that drives up-selling, and it is nothing short of systemic exploitation.
- *Sanctity in Cemeteries.* Following the example of New York State, the FTC should prohibit new combines of funeral homes and cemeteries, and disband existing combines where cemeteries are run for profit.
- *Enforcement and Prosecution.* The Funeral Rule must be more than a rule of thumb. The FTC should work closely with consumer protection agencies and consumer advocates to ensure full prosecution of the Funeral Rule, including a systemic strategy of anti-trust investigations.

The Five Points for Emancipation will make the funeral services profession more transparent, giving consumers the information they need to make informed decisions. The Five Points strategy, combined with *The Bereavement Bill of Rights*, argues for a regulatory regime which places the interests of grieving families ahead of all other considerations. Embodied in a revised

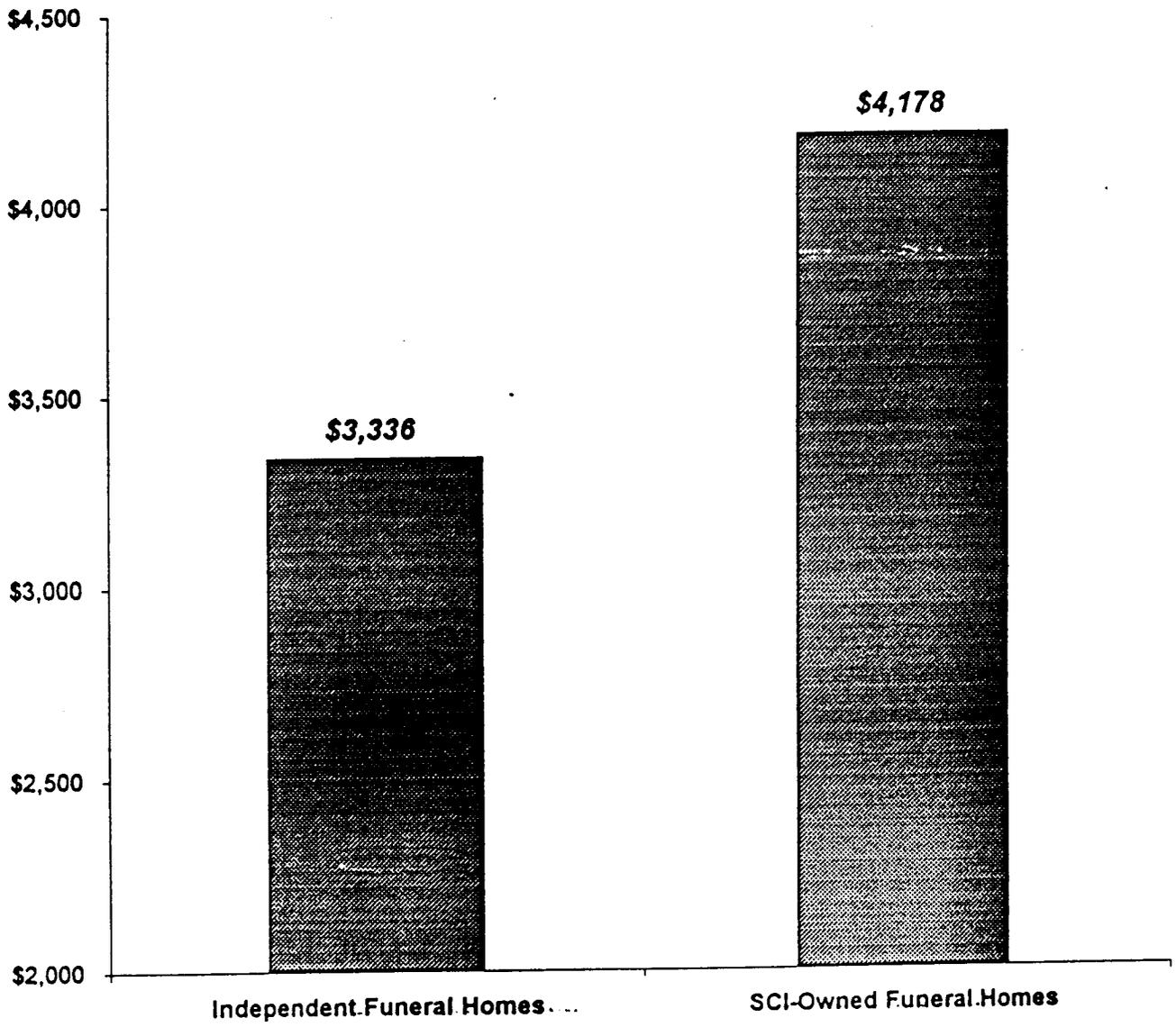
Funeral Rule, this approach encourages an ethical, cost competitive environment within the funeral services profession. It preserves as sacred the space all families need to make choices on the most difficult day of their lives.

Attachments:

- 1) Bereavement Bill of Rights
- 2) High Cost of Dying, Charts pages 11 and 16.

# "The High Cost of Dying"

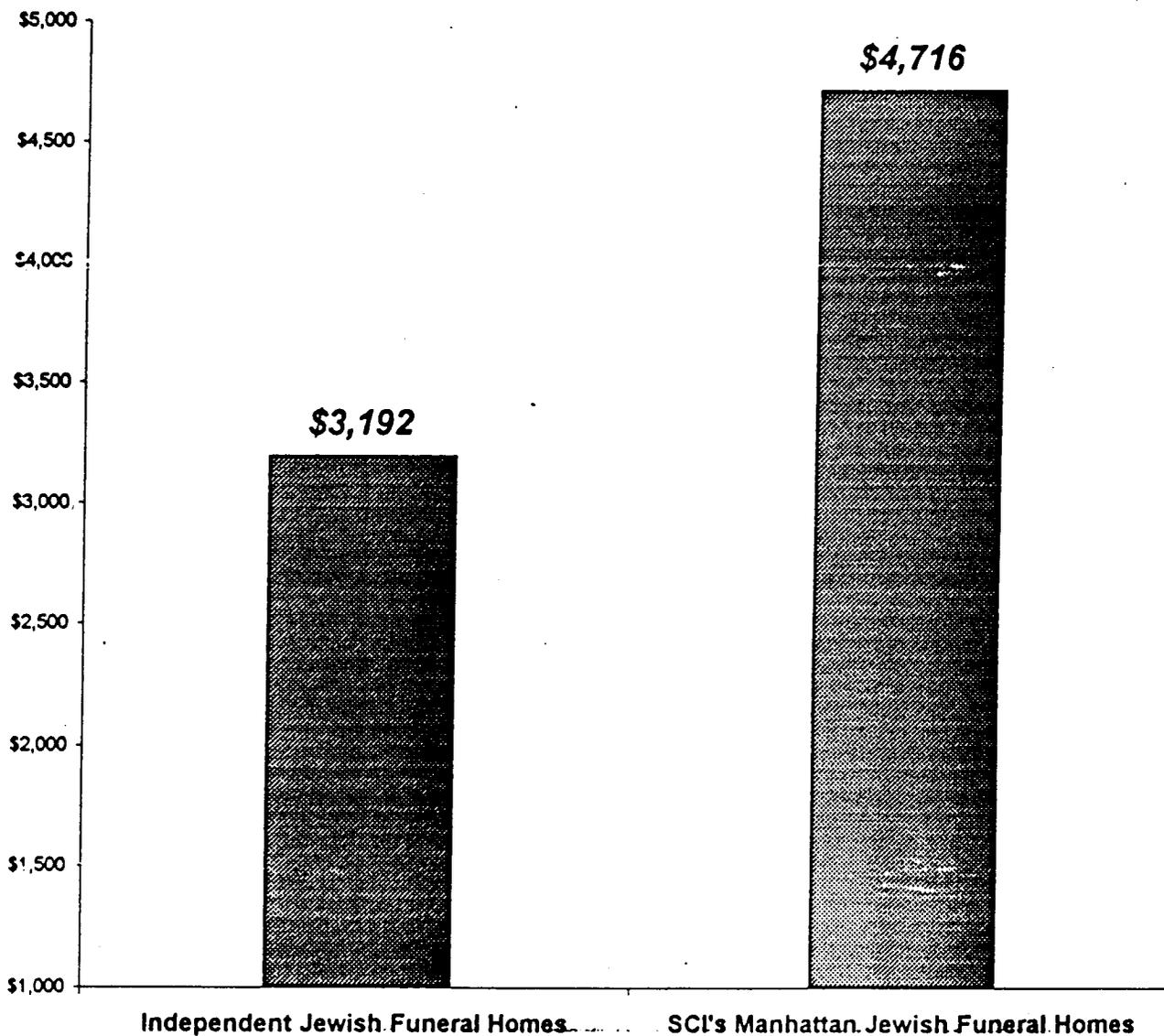
SCI Funeral Homes Are 25% More Expensive Than Independent Funeral Homes



NYC Department of Consumer Affairs  
FEBRUARY, 1999

# "The High Cost of Dying"

Jewish Funerals in Manhattan are  
50% More Expensive Than Those In Other Boroughs



NYC Department of Consumer Affairs  
February, 1999