



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of the Secretary

April 29, 2014

James F. Elwell
State of California

Re: *In the Matter of Service Corporation International and Stewart Enterprises, Inc.*
Docket No. C-4423, FTC File No. 131-0163

Dear Mr. Elwell,

Thank you for your comment regarding the divestiture of the J.T. Oswald funeral home in Los Angeles, California. As we understand your comment, you have concerns that the proposed Consent Order does not require divestiture of the name "Funeraria del Angel" ("FDA") and that SCI would retain all rights to use the FDA name. Specifically, you stated that SCI might be able to add the FDA name to other SCI-owned funeral homes in the area, which, in turn, would interfere with J.T. Oswald's ability to continue operating. You asked that any proposed purchaser of the J.T. Oswald funeral home be given the opportunity to operate under the Funeraria del Angel name, while restricting SCI from using the name within a 15-mile radius of the existing J.T. Oswald facility. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and it has been given detailed review.

SCI currently operates approximately 40 FDA-branded funeral homes in cities across the country, including in Los Angeles, San Diego, Corpus Christi, El Paso, Dallas, Houston, San Antonio, Miami, Puerto Rico, Phoenix, Rio Grande Valley, Yuma, Tucson, and Chicago. SCI employs the FDA brand as a signal to consumers that SCI owns the funeral home and that it caters predominantly to a Hispanic clientele.

The J.T. Oswald Mortuary was founded in 1948 and operated successfully for over 50 years until SCI added the Funeraria del Angel name in 2005.¹ The J.T. Oswald name, by itself, carries sufficient brand recognition and strength within the community to prosper without the FDA affiliation attached to it. Moreover, because of the long and close association between the FDA name and SCI, the transfer or license of the FDA name to a divestiture buyer for J.T. Oswald Mortuary might confuse consumers regarding the facility's ownership. As a result, it appears unnecessary and inadvisable to offer a proposed purchaser the opportunity to acquire the FDA brand name. Moreover, the evidence does not support requiring SCI to refrain from using

¹ See History of Funeraria del Angel J.T. Oswald, at <http://www.funerariasdelangel.com/angel-jt-oswald/en-us/history.page>.

the FDA brand within a 15-mile radius of J.T. Oswald. SCI will be required, however, to divest the J.T. Oswald customer list to the purchaser of the facility to help ensure the facility's continued success.

After considering the entire evidentiary record, including all submitted comments, the Commission has determined that the public interest would best be served by issuing the Decision and Order as final without modification. A copy of the final Decision and Order and other relevant material are available from the Commission's website at <http://www.ftc.gov>.

It helps the Commission's analysis to hear from a variety of sources in its work on antitrust and consumer protection issues, and we appreciate your interest in this matter.

By direction of the Commission, Commissioner McSweeney not participating.

Donald S. Clark
Secretary