

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

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In the Matter of	)	
	)	
<b>Service Corporation International,</b>	)	Docket No. C-4423
a corporation, and	)	File No. 131 0163
	)	
<b>Stewart Enterprises, Inc.,</b>	)	
a corporation	)	
_____	)	

**PETITION OF RESPONDENTS FOR APPROVAL OF PROPOSED  
DIVESTITURE OF CERTAIN ASSETS OF THE DIVESTITURE BUSINESSES**

Pursuant to Section 2.41(f) of the Federal Trade Commission (“Commission”) Rules of Practice and Procedure, 16 C.F.R. § 2.41(f) (2012), and Paragraphs II.A of the Decision and Order contained in the Agreement Containing Consent Orders accepted for public comment in this matter (“Decision and Order”), Respondent Service Corporation International (“SCI”) hereby petitions the Commission to approve the divestiture to Heritage Family Funeral Services, Inc. (“HFFS”) and Heritage Family Cemetery, Inc. (“HFC”) of the Divestiture Businesses associated with the following facility: Oak Hill Memorial Park, Funerals and Cremations, 800 Truxton Drive, Kingsport, Tennessee 37660.

The Divestiture Businesses associated with this facility (as defined in the Decision and Order, and hereinafter collectively referred to as the “Divestiture Assets”) will be sold pursuant to two Asset Sale Agreements dated June 23, 2014, by and among HFFS, HFC, and S.E. Combined Services of Tennessee, Inc., a subsidiary of SCI (the

“ASAs”). HFFS is an S Corporation that is owned by The 2000 Richard Tetrick Irrevocable Trust. HFC is a 501(c)(13) not-for-profit cemetery company governed by an elected Board of Directors. HFC has a management agreement with Heritage Family Management, LLC (“HFM”), which is also owned by The 2000 Richard Tetrick Irrevocable Trust. HFM performs services including, but not limited to, pre-employment screening, human resources, information technology support, payroll functions, accounting, corporate offices, training, continuing education, business contract negotiations, and marketing.

### Background

On December 23, 2013, SCI and Respondent Stewart Enterprises, Inc. (“Stewart”) (collectively, the “Respondents”) executed an Agreement Containing Consent Orders that included the Decision and Order and Order to Hold Separate and Maintain Assets (collectively, the “Consent Agreement”) to settle the Commission’s charges that the proposed acquisition by SCI of Stewart would violate Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18. On December 23, 2013, the Commission accepted the Consent Agreement for public comment, and on December 23, 2013, SCI consummated its acquisition of Stewart. Stewart is now a wholly owned subsidiary of SCI. The Commission issued the Consent Agreement as final on April 29, 2014.

Because this petition and its attachments contain confidential and competitively sensitive business information relating to the divestiture of the Divestiture Assets—the disclosure of which may prejudice the Respondents and Heritage, cause harm to the ongoing competitiveness of the Divestiture Assets, and impair Respondents’ ability to comply with their obligations under the Consent Agreement—Respondents have

redacted such confidential information from the public version of this petition and its attachments. Pursuant to Sections 2.41(f)(4) and 4.9(c) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 2.41(f)(4) & 4.9(c) (2012), Respondents request that the non-public, confidential version of this petition and its attachments and the information contained herein be accorded confidential treatment. The confidential version of this petition should be accorded such confidential treatment under 5 U.S.C. § 552 and Section 4.10(a)(2) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 4.10(a)(2) (2012). The confidential version of this petition is also exempt from disclosure under Exemptions 4, 7(A), 7(B), and 7(C) of the Freedom of Information Act, 5 U.S.C. §§ 552(b)(4), 552(b)(7)(A), 552(b)(7)(B), & 552(b)(7)(C), and the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. § 18a(h).

SCI desires to complete the proposed divestiture of the Divestiture Assets as soon as possible, following Commission approval thereof. All conditions other than Commission approval have already been satisfied so that SCI, HFFS, and HFC are in a position to close the divestiture within a few days of such approval. Prompt consummation will further the purposes of the Decision and Order and is in the interests of the public, HFFS, HFC, and the Respondents, because it will allow HFFS and HFC to move forward with their business plans for the competitive operation of the Divestiture Assets. SCI accordingly requests that the Commission promptly commence the period of public comment pursuant to Section 2.41(f)(2) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 2.41(f)(2) (2012), limit the public comment period to the customary 30-day period, and grant this petition by approving the divestiture of the Divestiture Assets

to HFFS and HFC pursuant to the above-referenced ASAs as soon as practicable after the close of the public comment period.

**I. The ASAs Are Final and Consistent with the Decision and Order's Terms**

Paragraph II.A of the Decision and Order requires the Respondents to divest the Divestiture Businesses (as defined in the Decision and Order) within 180 days of the date on which the Order is issued.<sup>1</sup> Pursuant to this requirement, SCI diligently has sought buyers that would be acceptable to the Commission, through an extensive auction process that produced great interest in the properties. As noted above, on June 23, 2014, SCI entered into the ASAs with HFFS and HFC, which require SCI to sell the Divestiture Assets to HFFS and HFC. The executed ASAs are attached hereto as Confidential Exhibit A and Confidential Exhibit B.

The ASAs with HFFS and HFC comply with the requirements of Paragraph II of the Decision and Order. Paragraph II.A requires that Respondents divest the Divestiture Assets, absolutely and in good faith. Pursuant to the ASAs, HFFS and HFC will acquire the Divestiture Assets. See ASA § 1.1 (same provision in both ASAs).

HFFS and HFC have acknowledged that the Divestiture Assets, together with their existing resources, enable them to operate the Divestiture Assets as ongoing entities and that no other assets are needed from SCI to do so. See ASA § 4.4 (same provision in both ASAs).

\* \* \*

As demonstrated above and in the accompanying ASAs, SCI has entered into agreements relating to the divestiture of the Divestiture Assets that fully comply with the Commission's Decision and Order with respect to the divestiture of these assets. Accordingly,

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<sup>1</sup> The Commission issued the final Order on April 29, 2014.

Respondents hereby seek Commission approval of the proposed divestitures pursuant to Paragraph II.A of the Decision and Order.

## **II. The Prospective Acquirer Will Be a Strong and Effective Competitor**

### **A. Background**

HFFS and HFC have extensive experience in acquiring and operating funeral homes and cemeteries, have the financial wherewithal to make this acquisition, and the acquisition of the businesses in question by HFFS and HFC will ensure that those businesses remain strong and effective competitors in Kingsport, Tennessee.

Donald W. Tetrick, Sr., acquired the North Funeral Home in Elizabethton, Tennessee, in 1943 and rebranded it as the first Tetrick Funeral Home. Mr. Tetrick and his father, Glen W. Tetrick, operated the funeral home together until 1959 when Glen W. Tetrick retired. Don Tetrick's son, Richard Tetrick, joined the business in 1968. The Tetrick family's commitment to compassionate personal service allowed the company to expand, and by 1990, the Tetricks operated twelve (12) funeral homes in Tennessee, North Carolina, and Virginia.

Tetrick Funeral Home officially became HFFS in 1991 and continued to bring other funeral homes into the parent company of HFFS.

Today, HFFS and HFC own 21 funeral homes, seven cemeteries, and two cremation societies in the states of Georgia, Kentucky, North Carolina, Tennessee and Virginia, as well as a pet cremation businesses, a casket distribution business, an insurance agency, and a burial vault company. HFFS has grown from serving 38 families in 1943 to 3,097 families in 2013.

Richard Tetrick, the president of HFFS, has served in the death care industry in various ways throughout his career. He has served on the board of Tennessee Funeral Directors

Association; as president of the Upper East Tennessee Funeral Director Association and of the Tri-Cities Funeral Director Association; as a member and chairman of the Tennessee State Board of Funeral Directors and Embalmers; and as a board member and secretary of an international trade group, Selected Independent Funeral Homes, the largest independent funeral home association in the world.

HFFS's Chief Financial Officer, Renee Lockhart, has been with the company for 25 years, and its Chief Operating Officer, Mark Aaroen, has 28 years of experience in the death care industry. Tyler Tetrick, president of HFC, has over 10 years of experience in the cemetery industry.

Today HFFS and HFC employ 123 full-time employees and 94 part-time employees. The total revenue for HFFS and HFC in 2013 was [REDACTED]. The funeral homes and cremation societies served 3,097 families in 2013. The cemeteries conducted a total of 924 interments, entombments and inurnments in 2013.

#### **B. Financial Capability**

HFFS and HFC plan to retain all assets involved in the purchase of the Divestiture Assets. HFFS currently has a credit line of [REDACTED] with Citizens Bank of the Tri-Cities based in Elizabethton, Tennessee. HFFS plans to use [REDACTED] of the credit line, along with [REDACTED] of HFC's cash reserves toward the purchase price, and finance the rest of the purchase price from existing capital that is an asset of the company or its owners. At the present time, neither HFFS nor HFC have any bank debt. All necessary financing during the past 34 years has been from internal cash flow or loans from Citizens Bank of the Tri-Cities, SunTrust Bank or Security Federal Bank. The company anticipates retiring the [REDACTED] line of credit within 36 months.

HFFS intends to implement the following measures to improve the business of the

Divestiture Assets: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### **C. Operations Experience**

#### **Richard Tetrick, President and Chief Executive Officer**

Richard Tetrick began working for his father in the funeral home at the age of 16. He worked in the funeral home as a part-time employee through high school and college. Upon graduation from Mortuary College, he became a full-time employee working with his father until his father's retirement in 1980. Richard first began to grow his family's business when he opened a small satellite funeral home in Roan Mountain, Tennessee, which is known today as Tetrick Funeral Home-Rhododendron Chapel. At the age of 27, Richard developed the project and personally secured all necessary financing to complete the project. That same year, Richard and his father incorporated the Tetrick Funeral Home and Richard acquired 50% of the ownership of the newly formed corporation. When Richard's father retired in 1980, Richard purchased the remainder of the stock of Tetrick Funeral Home, Inc. from his father. Since the initial purchase, Richard has participated in and secured financing for the purchase or development of 23 funeral homes, nine cemeteries, two cemetery monument companies, two pet cremation businesses, two cremation societies, and a casket distribution company that sells caskets to funeral homes across the tri-state area.

Further, Richard Tetrick is a licensed funeral director and embalmer in the states of North Carolina and Tennessee. He is a member of various study groups that are involved in

the improvement of the operation of funeral homes and cemeteries in the death care industry. As a funeral director, Richard has made arrangements for and directed over 5,000 services during his career. Since 1988, Richard has assumed more of a managerial role instead of being a front-line funeral director. Richard has been a speaker for National Funeral Directors Association (NFDA) and Selected Independent Funeral Homes (SIFH) on numerous occasions. Most recently, he was a speaker for NFDA in their Meet The Mentor program and for SIFH in their Selected Connections Program, at which he spoke about how to evaluate and acquire funeral homes. Over the years, Heritage Funeral Homes have been continually recognized for their ability to provide innovative ideas to better serve families.

**Tyler Tetrick, President, Heritage Family Cemetery**

Tyler Tetrick has a BS degree in analytical finance and a Master's Degree in Accountancy from Wake Forest University. Upon graduating from college in 2003, he became a certified CPA and worked with PriceWaterhouseCoopers in Kingsport, Tennessee. He joined HFC in 2005. At that time, HFC was struggling financially and had long-term debt in excess of [REDACTED]. Since assuming the role of President, Tyler has improved the operation of the cemeteries by reducing the expenses and improving the sales of the cemeteries. As a result, the cemeteries have no debt and presently have in excess [REDACTED] in cash reserves. Tyler has been instrumental in developing new mausoleum inventory and cremation gardens in the cemeteries. He is a member of the Death Care Management Council and presently serves as the president of the Cemetery Association of Tennessee. He is also a licensed funeral director in the state of Tennessee.



**Renee Lockhart, Vice President and Chief Financial Officer**

Renee Lockhart is originally from Middlesboro, Kentucky, but came to Johnson City in 1983 to pursue her degree at East Tennessee State University. She completed her Bachelor in Business Administration with a concentration in Accounting in 1987 and her Master's in Accountancy in 1989. In April 1990, she joined HFFS. At that time, HFFS had 11 funeral homes in three states with revenues of slightly over [REDACTED] and a corporate office staff of three, which included the President, the Human Resources director, and Renee. Over the past 24 years, Renee has been part of the team that has seen Heritage grow to 21 funeral homes in five states with funeral home revenues of over [REDACTED] at the end of 2013.

During her tenure, she has been involved with every Heritage acquisition, including performing the due diligence work, assisting with the contract negotiations, and coordinating the implementation of the new policies and procedures. In addition to working on acquisitions, Renee also oversees all aspects of the Accounting Department, including financial statement preparation for over 40 Heritage-affiliated entities, budget preparation for all funeral homes, accounts payable for all entities, payroll for over 200 employees, sales tax for five states, and internal auditing for all entities. Renee also coordinates the financial accounting for the Funeral Directors Council study group and The Discovery study group.

In addition to her career, Renee also remains involved in the community. She is a former member of the Elizabethton Civitan Club and the Elizabethton Rotary Club, currently serves the President-Elect of the East Tennessee State University Alumni Association Board of Directors, and was recently chosen to serve as a member of the East Tennessee State University Foundation. In 2001, Renee was selected as one of the top 40 business professionals in the Tri-

Cities, Tennessee, area under the age of 40. In 2003, she was inducted into the ETSU College of Business Hall of Fame in 2003 as a Horizon Award winner.

**Mark Aaroen, Vice President and Chief Operations Officer**

Mark Aaroen received his Bachelor's Degree from the University of Wisconsin – Eau Claire, and his Associate Degree in Funeral Service from the New England Institute of Arts and Sciences in Boston, Massachusetts. Mark has been a licensed funeral director and embalmer for 27 years. During that time he has served in a management capacity for Murray Community Funeral Homes in Beaver Dam, Wisconsin, Krause Funeral Home and Cremation Services in Milwaukee, Wisconsin, and the Harry J. Will Funeral Homes in Detroit, Michigan. In May 2009, he joined HFFS as Chief Operations Officer. He served as president of the Funeral Service Alliance of Wisconsin, and has member affiliations with the State Funeral Director Associations in Wisconsin, Michigan and Tennessee, the National Funeral Director Association, the International Cemetery, Crematory and Funeral Association, and Selected Independent Funeral Directors.

As Chief Operating Officer, Mark oversees 21 funeral locations and two cremations societies. He oversees a licensed staff 38 professional funeral directors and four intern apprentices, plus all of the part-time staff associated with the funeral homes. Since Mark joined HFFS, funeral calls have increased by 544 annually, increasing from 2,653 his first year with HFFS to 3,097 in 2013. Mark has 18 managers who report directly to him. Since joining HFFS, he has participated in the acquisition and integration into HFFS of four funeral home properties located in Georgia, Kentucky, and Tennessee.

HFFS and HFC plan to retain all existing staff. Some staff members may be employed in other HFFS properties in the Tri-Cities area in addition to working at the divestiture

business. As discussed above, HFFS and HFC have sufficient operating expertise to not only ensure the continued competitiveness of the Divestiture Assets, but to enhance it.

### **III. The Proposed Divestiture Agreement Will Achieve the Purposes of the Decision and Order and Result in No Harm to Competition**

The proposed divestiture of the Divestiture Assets, as embodied in the ASAs, will achieve the purposes of the Decision and Order. HFFS and HFC are experienced operators of funeral homes and cemeteries, with a proven track record of successfully operating and enhancing the funeral homes and cemeteries that they have acquired in the past. HFFS and HFC enjoy a strong financial position that will enable them to complete this acquisition, continue the operation of the Divestiture Assets, and enhance their competitiveness in the death care industry. Combining the Divestiture Assets with HFFS and HFC's experience and financial wherewithal will ensure that the objectives of the Commission's Decision and Order will be realized.

The proposed acquisition of the Divestiture Assets does not present any competitive concerns because the Divestiture Assets do not compete with HFFS or HFC's current locations. HFFS and HFC currently own the following properties:

#### Georgia

Peachtree Cremation Society-329 Gees Mill Parkway NE, Conyers, GA 30013  
 Peachtree Pet Cremation-120 Scenic Highway, Lawrenceville, GA 30046  
 Tom M Wages Funeral Home-120 Scenic Highway, Lawrenceville, GA 30046  
 Tom M Wages Funeral Home – 3705 Highway 78, Snellville, GA 30039  
 Starling-Evans Funeral Home-U S Highway 78, Harlem, GA 30814

#### Kentucky

London Funeral Home-879 South Main Street, London, KY 40741

#### North Carolina

Ashelawn Memorial Chapel-3740 U S 221, Jefferson, NC 28617  
 Badger Funeral Home-300 North Main Street, West Jefferson, NC 28694  
 Grandview Memorial Funeral Home-789 Grandview Drive, Sparta, NC 28675

Reins-Sturdivant Funeral Home-296 Ash Street, Newland, NC 28657  
 Webb Funeral Home-208 Roan Road, Spruce Pine, NC 28777  
 Ashelawn Memorial Gardens-3740 U S 221, Jefferson, NC 28617

Tennessee:

Tetrick Funeral & Cremation Services – Johnson City, 3001 Peoples Street, Johnson City, TN 37604  
 Tetrick Funeral Home – Bluff City Chapel, 245 Main Street, P.O. Box 425, Bluff City, TN 37618  
 Tetrick Funeral Home – Elizabethton, 211 North Riverside Drive, P.O. Box 730, Elizabethton, TN 37644  
 Tetrick Funeral Home – Roan Mountain, 8460 Highway 19 E, Roan Mountain, TN 37687  
 Hathaway-Percy Funeral Home-101 East F Street, Elizabethton, TN 37643  
 Valley Funeral Home- 1085 N. Main Street, Erwin, TN 37650  
 Oakley-Cook Funeral Home-2223 Volunteer Parkway, Bristol, TN 37620  
 Jim Rush Funeral Home-2603 North Ocoee Street, Cleveland, TN 37312  
 Jim Rush Funeral Home-220 Wildwood Chapel-Cleveland, TN 37311  
 Cremation Society of North East Tennessee-2295 Highway 19E, Elizabethton, TN 37643  
 Washington Co. Memory Gardens, 113 Memory Gardens Road, Johnson City, TN 37615  
 Evergreen Cemetery, 1100 Seventh Street, P.O. Box 570, Erwin, TN 37650  
 Glenwood/Shelby Hills Cemetery, 839 Bluff City Highway, Bristol, TN 37620  
 Adored Pets Crematory -2295 Highway 19E, Elizabethton, TN 37643  
 Summit Casket Company-129 Judge Don Lewis Road, Elizabethton, TN 37643  
 Heritage Vault Service-129 Judge Don Lewis Road, Elizabethton, TN 3743

Virginia

Blevins Funeral Home – 417 Lee Street, Bristol VA 24201  
 Castlewood Funeral Home- 80 Donnie Dean Drive, Castlewood, VA 24224  
 Garrett Funeral Home-203 North Shady Avenue, Damascus, VA 24236  
 Mountain View Cemetery, 1019 E. Valley Drive, Bristol, VA 24201  
 Knollkreg Memorial Park, 556 Walden Road, Abingdon, VA 24210  
 Sunset Memorial Park, 21674 Monroe Road, P.O. Box 556, Damascus, VA 24236

The proposed divestiture will result in no harm to competition. Neither HFFS nor HFC currently compete in any market, as defined in the Commission’s Complaint, in which the Divestiture Assets operate.<sup>2</sup> Consequently, there is no overlap between the operations of HFFS, HFC, and the Divestiture Assets, and the proposed divestiture does not raise any competitive issue.

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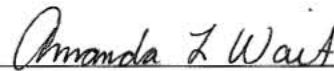
<sup>2</sup> The Commission’s Complaint defined the relevant market as cemetery services in Kingsport, Tennessee. See Complaint ¶ 15 (22). As Commission staff have recognized, Johnson City and Kingsport are two separate markets because customers in Johnson City will not travel to Kingsport for potential competitive alternatives, and vice versa.

In sum, the proposed divestiture will remedy any alleged anticompetitive effects that could result from the Acquisition. The ASAs will achieve the Commission's stated purposes of ensuring the continued use of the Divestiture Assets in the same business in which they were engaged at the time of the announcement of the Acquisition and remedying the lessening of competition as alleged in the Commission's Complaint.

Conclusion

For the foregoing reasons, Respondents respectfully request that the Commission approve the proposed divestiture of the Divestiture Assets to HFFS and HFC, as embodied in the ASAs, as soon as practicable after expiration of the public comment period.

Respectfully submitted,



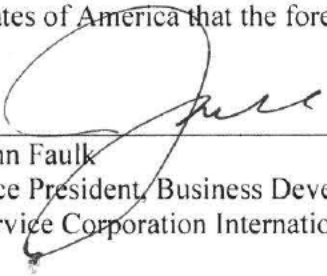
Amanda L. Wait  
Hunton & Williams LLP  
2200 Pennsylvania Ave, NW  
Washington, D.C. 20037  
Counsel for Respondents

Dated:

CERTIFICATION OF SERVICE CORPORATION INTERNATIONAL

The facts and information related in the foregoing Petition, insofar as they pertain to Service Corporation International, its subsidiaries, and its assets, are, to the best of my knowledge, true, correct, and complete.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



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John Faulk  
Vice President, Business Development  
Service Corporation International

CERTIFICATION OF HERITAGE FAMILY FUNERAL SERVICES, INC. AND HERITAGE  
FAMILY CEMETERY, INC.

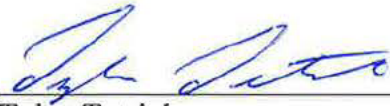
The facts and information related in the foregoing Petition, insofar as they pertain to Heritage Family Funeral Services, Inc. and Heritage Family Cemetery, Inc., their subsidiaries, and their assets, are, to the best of my knowledge, true, correct, and complete.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



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Richard Tetrick  
President and Chief Executive Officer  
Heritage Family Funeral Services, Inc.



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Tyler Tetrick  
President  
Heritage Family Cemetery, Inc.

# **Confidential**

# **Exhibit A**



# **Confidential**

# **Exhibit B**