



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

Division of Marketing Practices

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Mr. Joseph J. DellaVecchia, Jr.
DellaVecchia, Reilly, Smith & Boyd Funeral Home, Inc.
410 North Church St,
West Chester, PA 19380

Dear Mr. DellaVecchia:

This letter responds to your request for a staff opinion on whether the FTC Funeral Rule permits funeral homes to: (1) Charge a fee for disposal of the container in which a third-party casket is shipped; (2) Charge a fee for storage of a third-party casket that is delivered in advance of the time it is needed; and (3) Furnish consumers with two separate contracts: one covering goods and services provided by the funeral home, and one covering cash advance items secured from third parties by the funeral home on behalf of the consumer.

With respect to the first two questions, your letter acknowledges that the Funeral Rule does not permit funeral providers to charge a casket handling fee, but argues that providers should be allowed to charge separate fees for disposing of the large containers in which third-party caskets are shipped, and for storing third-party caskets when they arrive several days before they are needed for a visitation or service.

The requirement that funeral providers allow customers to use caskets purchased from third parties comes from section 453.4(b) of the Rule. Section 453.4(b)(i) makes it an unfair or deceptive act or practice for a funeral provider to “[c]ondition the furnishing of any funeral good or funeral service to a person arranging a funeral upon the purchase of any other funeral good or funeral service, except as required by law or as otherwise permitted by this part.”¹

The prohibition on casket handling fees, arises from section 453.4(b)(ii) of the Rule which prohibits funeral providers from charging “any fee as a condition to furnishing any funeral goods or funeral services to a person arranging a funeral” other than the basic services fee, payments for the funeral goods and services selected, and payments for items required to meet

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16 C.F.R. § 453.4(b)(i).

legal, cemetery or crematory requirements.² Thus, when a customer purchases a casket from a third party, a funeral provider is prohibited from requiring that the customer purchase any other good or service, or pay “any fee” other than those permitted by the Funeral Rule. Requiring customers who use third party caskets to pay a casket handling fee would violate that section of the Rule. Likewise, it is staff’s opinion that requiring customers who use third party caskets to pay a shipping container disposal fee or a casket storage fee would violate the same provision of the Rule.

You also asked whether the Funeral Rule permits the use of two separate contracts so that a funeral provider can distinguish its own charges from “cash advance” charges for payments to third-party suppliers. It is staff’s opinion that providing two separate contracts would conflict with section 453.2(b)(5)(i) of the Rule. That section requires that at the conclusion of the discussion of arrangements, the funeral provider give the customer a written statement that lists the “funeral goods and services selected”; “specifically itemized cash advance items”; and “the total cost of the goods and services selected.”³ Thus, providing information about cash advance items in a separate document and not in the Statement would violate the Rule. However, section 453.2(b)(5)(ii) of the Rule provides that the information required by section 453.2(b)(5)(i) “may be included on any contract, statement or other document.” You are free, therefore, to format the Statement in a way that clearly distinguishes the charges for cash advance items to be paid to third parties from the charges for the goods and services you provide.

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 charged with enforcement of the Funeral Rule.

Sincerely,

Craig Tregillus
Funeral Rule Coordinator

² 16 C.F.R. § 453.4(b)(ii) (emphasis added).

³ See 16 C.F.R. § 453.2(b)(5).