



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

Division of Marketing Practices

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Mr. Carlos E. Rodriguez, President
Celestium Crematory
P.O. Box 9086
Plaza Carolina Station
Carolina, Puerto Rico 00988-9086

Dear Mr. Rodriguez:

You have asked for confirmation of your understanding that the Commission's Funeral Rule applies to funeral providers in Puerto Rico. Your request was prompted by a recent hearing examining funeral home practices in the Commonwealth House of Representatives where some legislators expressed their belief that the Rule is inapplicable in Puerto Rico, giving funeral providers there the impression they need not comply. You are correct, of course, that the Rule does apply to funeral providers in Puerto Rico, as a brief review of the history of the relationship between the United States and Puerto Rico shows.

A Presidential task force has recounted that history,¹ but it is useful to summarize it here. Puerto Rico was ceded to the United States by Spain in 1898 pursuant to the Treaty of Paris, which ended the Spanish-American war.² After two years under a military governor, Congress in 1900 established a civilian government for Puerto Rico.³ In 1917, Congress established the island as an "organized but unincorporated" territory and granted U.S. citizenship to Puerto Ricans.⁴ In 1952, pursuant to the Puerto Rican Federal Relations Act,⁵ a referendum vote by the people of Puerto Rico approved a new constitution, also approved by Congress later that year,

¹ REPORT BY THE PRESIDENT'S TASK FORCE ON PUERTO RICO'S STATUS (Dec. 2007) ("Task Force Report"), available at <http://www.justice.gov/opa/documents/2007-report-by-the-president-task-force-on-puerto-rico-status.pdf>.

² *Id.* at 3.

³ *Id.*

⁴ *Id.*

⁵ Pub. L. 600.

which established the present-day Commonwealth of Puerto Rico.⁶ In four subsequent plebiscites, Puerto Ricans have declined to alter that status in favor of becoming a state or an independent sovereign nation.⁷

The U.S. Constitution provides that “[t]he Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.”⁸ The Department of Justice accordingly affirmed Puerto Rico’s territorial status in 1959, several years after the creation of the Commonwealth,⁹ as has the Supreme Court.¹⁰ Thus, Puerto Rico is a “territory” of the United States.

Section 5 of the Federal Trade Commission Act (“FTC Act”) prohibits “unfair or deceptive acts or practices in or affecting commerce.”¹¹ Section 4 of the FTC Act defines “commerce” as follows:

Commerce means commerce among the several states or with foreign nations, *or in any territory of the United States* or in the District of Columbia, or between any such territory and another, or between any such territory and any state or foreign nation, or between the District of Columbia and any state or territory or foreign nation.¹²

The Commission’s Funeral Rule was issued in 1982 pursuant to Section 18(a)(1) of the FTC Act,¹³ which mandates, in pertinent part, that any such rule “define with specificity acts or practices which are unfair or deceptive acts or practices *in or affecting commerce* (within the meaning of such section 5(a)(1)).”¹⁴ Consequently, the Funeral Rule has the same jurisdictional reach over unfair or deceptive acts or practices as Section 5 of the FTC Act, which reaches commerce “in any territory of the United States.” Because Puerto Rico remains a U.S. “territory,” the Funeral Rule applies to funeral providers in Puerto Rico.

⁶ Task Force Report at 3.

⁷ *Id.* at 3-4.

⁸ Art. IV, § 3, cl. 2.

⁹ Task Force Report at 5; *see* note 4 *supra*, and accompanying text.

¹⁰ *See, e.g., Harris v. Rosario*, 446 U.S. 651 (1980).

¹¹ 15 U.S.C. § 45(a)(1).

¹² 15 U.S.C. § 44 (emphasis added).

¹³ 47 Fed. Reg. 42260, 42263 (Sept. 24, 1982)

¹⁴ 15 U.S.C. § 57a(a)(1)(B) (emphasis added).

Mr. Carlos E. Rodriguez

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I am enclosing copies in English and Spanish of the Compliance Guide to the Funeral Rule. The Guide is also available on the FTC's website in English at <http://www.ftc.gov/bcp/edu/pubs/business/adv/bus05.pdf> and in Spanish at <http://www.ftc.gov/bcp/edu/pubs/business/adv/sbus05.pdf>.

Please be advised that 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 upon the Commission. However, they do reflect the opinions of those staff members charged with enforcement of the Funeral Rule. Staff Funeral Rule opinions are routinely posted on the FTC website at <http://www.ftc.gov/bcp/online/edcams/funerals/staffopinions.shtm>.

Sincerely,

/s/

Craig Tregillus
Funeral Rule Coordinator