

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman
Pamela Jones Harbour
Jon Leibowitz
William E. Kovacic
J. Thomas Rosch

_____)
In the Matter of)
)
Service Corporation International,)
a corporation, and) Docket No. C-4174
)
Alderwoods Group, Inc.,)
a corporation.)
_____)

COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission (“Commission”), having reason to believe that Respondent Service Corporation International (“SCI”), a corporation subject to the jurisdiction of the Commission, has agreed to acquire Respondent Alderwoods Group, Inc., (Alderwoods), a corporation subject to the jurisdiction of the Commission, in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18 and Section 5 of the Federal Trade Commission Act (“FTC Act”), as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint, stating its charges as follows:

I. Respondent Service Corporation International

1. Respondent SCI is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 1929 Allen Parkway, Houston, Texas 77019. SCI, among other things, is engaged in the sale and provision of (a) funeral services and associated products, and (b) cemetery services and associated products and property.

2. Respondent SCI is, and at all times relevant herein has been, engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

3. As of December 31, 2005, Respondent SCI owned and operated about 1023 funeral homes and 359 cemeteries in the United States. SCI had sales in 2005 of \$1.7 billion. In the majority of instances, SCI's sales of funeral and cemetery services are of the traditional, full-service variety.

II. Respondent Alderwoods Group, Inc.

4. Respondent Alderwoods is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 311 Elm Street, Suite 1000, Cincinnati, Ohio 45202. Alderwoods is engaged in the sale and provision of (a) funeral services and associated products, and (b) cemetery services and associated products and property.

5. Respondent Alderwoods is, and at all times relevant herein has been, engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

6. As of December 31, 2005, Respondent Alderwoods owned and operated about 581 funeral homes and 128 cemeteries in the United States. Alderwoods had sales in 2005 of approximately \$740 million. In the majority of instances, Alderwoods' sales of funeral and cemetery services are of the traditional, full-service variety.

III. The Proposed Acquisition

7. On or about April 2, 2006, Respondents SCI and Alderwoods entered into an agreement for SCI to acquire all of the outstanding voting securities of Alderwoods. The purchase price is approximately \$1.23 billion, including the assumption of debt.

8. The proposed acquisition would combine the two largest sellers and providers of funeral and cemetery services and associated merchandise or property in the United States. Respondents SCI and Alderwoods both own and operate funeral service facilities, cemetery service facilities, or both funeral service and cemetery service facilities, in about 140 of the same local geographic areas throughout the United States.

IV. SCI's Dignity Memorial Program

9. One of the service marks used by Respondent SCI in connection with its sale of funeral services and associated products is "Dignity Memorial." In some parts of the country where SCI does not operate funeral service facilities, SCI has entered into license agreements or

other business relationships with third party funeral service providers to allow those third parties, for a fee, to sell funeral services and associated products under the Dignity Memorial service mark. SCI refers to these third parties as “Dignity Memorial affiliates.”

10. Pursuant to its license agreements with the Dignity Memorial affiliates, Respondent SCI sells promotional materials or sales aids to these third party funeral homes and requires that a specified level of service be provided in connection with a Dignity Memorial funeral arrangement. SCI has suggested retail prices for Dignity Memorial services to some third party funeral homes. Alderwoods provides funeral services in some of the areas in which SCI has a contractual relationship with Dignity Memorial affiliates. After the acquisition, SCI, through the acquired Alderwoods facilities and businesses, will be in direct competition with the third party Dignity Memorial affiliates that by contract will continue to operate under the license agreement to sell Dignity Memorial funeral services.

V. Nature of Trade and Commerce

11. The funeral homes and cemeteries of Respondents SCI and Alderwoods compete on many fronts, including name recognition and reputation, location, price, range of available services, quality of service and associated product offerings, and the appearance of facilities.

12. Respondents SCI and Alderwoods normally provide a broad spectrum of products and services from each of their facilities in an effort to meet the desires of a highly diverse population. Within that highly diverse population, consumers of funeral or cemetery services often observe a tradition of shared customs and rituals associated with specific cultural, ethnic, or religious needs. Notwithstanding the willingness of funeral and cemetery service providers to serve all potential customers, customers of funeral and cemetery facilities often associate specific facilities or properties with the ability to provide the specialized customs and ritual services that they require. SCI has recognized that, in some areas, people who share a common culture generally have an affinity to each other when there is a death in the family. SCI refers to consumers seeking specialized services associated with their cultural, ethnic, or religious affiliation as “customs-conscious” consumers.

VI. Relevant Product Markets

13. The relevant lines of commerce in which to analyze the proposed acquisition are the provision and sale of:

- (a) funeral services and funeral-service associated products, which includes all activities relating to the sale of funeral services and funeral goods, including but not limited to, services used to care for and prepare bodies for burial, cremation, or other final disposition; services used to arrange, supervise, or conduct the funeral ceremony or final disposition of human remains; and the sale of goods in connection with funeral services; and

- (b) cemetery services and cemetery-service associated products and property, which includes all activities relating to the sale of goods and services provided for the final disposition of human remains in a cemetery, whether by burial, entombment in a mausoleum or crypt, or disposition in a niche.

14. In some local markets, certain funeral homes and cemeteries cater to specific populations by focusing on the customs and rituals associated with one or more religious, ethnic, or cultural heritage groups. In these situations, market segmentation exists in connection with Jewish, Chinese-American, or African-American populations.

VII. Relevant Geographic Markets

15. For the purposes of this Complaint, the relevant geographic markets within which to assess the competitive effects of the proposed acquisition, as concerns funeral services and funeral-service associated products, are the following: (1) Abilene, Texas; (2) Alhambra, California; (3) Anchorage, Alaska; (4) Baton Rouge, Louisiana; (5) Broward County, Florida; (6) Brownsville, Texas; (7) Cartersville, Georgia; (8) Charlotte, North Carolina; (9) Fort Myers, Florida; (10) Gonzales, Louisiana; (11) Greensboro, North Carolina; (12) Hanford, California; (13) Hobbs, New Mexico; (14) Klamath Falls, Oregon; (15) Killeen, Texas; (16) Lansing, Michigan; (17) Lexington and West Columbia, South Carolina; (18) Lynchburg, Virginia; (19) Manassas, Virginia; (20) Mansfield, Ohio; (21) Memphis, Tennessee; (22) Merced, California; (23) Meridian, Mississippi; (24) Miami-Dade County, Florida; (25) Newton, Mississippi; (26) Odessa, Texas; (27) Pascagoula, Mississippi; (28) Port Orange, Florida; (29) Northern Rockland County, New York; (30) Seguin, Texas; (31) Tulare, California; (32) Southern Ventura County, California; (33) Williamsburg, Virginia; (34) Yakima, Washington; and (35) Yuma, Arizona.

16. For the purposes of this Complaint, the relevant geographic markets within which to assess the competitive effects of the proposed acquisition, as concerns cemetery services and cemetery-service associated products and property, are the following: (1) Abilene, Texas; (2) Baton Rouge, Louisiana; (3) Bradenton and Palmetto, Florida; (4) Broward County, Florida; (5) Columbia and Lexington, South Carolina; (6) Conroe, Texas; (7) Fort Myers, Florida; (8) Macon, Georgia; (9) Miami-Dade County, Florida; (10) Memphis, Tennessee; (11) Nashville, Tennessee; and (12) Ventura County, California.

VIII. Concentration

17. Each of the local areas identified in Paragraphs 15 and 16 is highly concentrated, and the proposed acquisition will substantially increase concentration, taking account of concentration measured by the Herfindahl-Hirschman Index (“HHI”), the number of competitively significant firms remaining in the market, and the market shares of SCI and Alderwoods.

- (a) In the funeral service markets:

1. **Abilene, Texas:** SCI and Alderwoods have a combined market share of about 63 percent. The proposed acquisition would increase the HHI by about 1210 points, from 3130 to 4340, leave a total of only four competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.
2. **Alhambra, California:** SCI and Alderwoods have a combined market share of about 100 percent of a market limited to competitors and their facilities that provide the customs and rituals that serve the Chinese-American community. The proposed acquisition would increase the HHI by about 4990 points, from 5010 to 10,000, and create a virtual monopoly of meaningful competitors.
3. **Baton Rouge, Louisiana:** SCI and Alderwoods have a combined market share of about 44 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 546 points, from 4529 to 5075, and create a virtual duopoly of meaningful competitors.
4. **Broward County, Florida:** SCI and Alderwoods have a combined market share of about 100 percent of a market limited to competitors and their facilities that provide the customs and rituals that serve the Jewish community. The proposed acquisition would increase the HHI by about 3977 points, from 6023 to 10,000, and create a virtual monopoly of meaningful competitors.
5. **Brownsville, Texas:** SCI and Alderwoods have a combined market share of about 47 percent. The proposed acquisition would increase the HHI by about 1103 points, from 2127 to 3230, and leave a total of only four competitors.
6. **Cartersville, Georgia:** SCI and Alderwoods have a combined market share of about 100 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 4983 points, from 5017 to 10,000, and create a virtual monopoly of meaningful competitors.
7. **Charlotte, North Carolina:** SCI and Alderwoods have a combined market share of about 62 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 1411 points, from 2726 to 4137, leave a total of only four meaningful competitors, and eliminate one of two competitors that are the first and second choices for a substantial number

of consumers.

8. **Fort Myers, Florida:** SCI and Alderwoods have a combined market share of about 47 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 1098 points, from 1990 to 3088, and leave a total of only three meaningful competitors.
9. **Gonzales, Louisiana:** SCI and Alderwoods have a combined market share of about 81 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 2188 points, from 4689 to 6877, and create a virtual duopoly of meaningful competitors.
10. **Greensboro, North Carolina:** SCI and Alderwoods have a combined market share of about 58 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 1156 points, from 3525 to 4681, leave a total of only three meaningful competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.
11. **Hanford, California:** SCI and Alderwoods have a combined market share of about 100 percent. The proposed acquisition would increase the HHI by about 4558 points, from 5442 to 10,000, and create a virtual monopoly.
12. **Killeen, Texas:** SCI and Alderwoods have a combined market share of about 57 percent. The proposed acquisition would increase the HHI by about 1140 points, from 2942 to 4082, and leave a total of only four competitors.
13. **Lansing, Michigan:** SCI and Alderwoods have a combined market share of about 65 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 1701 points, from 2858 to 4559, and leave a total of only four meaningful competitors.
14. **Lexington and West Columbia, South Carolina:** SCI and Alderwoods have a combined market share of about 47 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 599 points, from 2982 to 3581, and leave a total of only four meaningful competitors.

15. **Lynchburg, Virginia:** SCI and Alderwoods have a combined market share of 55 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 1188 points, from 2717 to 3905, and leave a total of only four meaningful competitors.
16. **Manassas, Virginia:** SCI and Alderwoods have a combined market share of about 42 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 795 points, from 4341 to 5136, and create a virtual duopoly of meaningful competitors.
17. **Memphis, Tennessee:** SCI and Alderwoods have a combined market share of about 63 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 1869 points, from 2409 to 4278, leave a total of only five meaningful competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.
18. **Merced, California:** SCI and Alderwoods have a combined market share of about 59 percent. The proposed acquisition would increase the HHI by about 1722 points, from 2329 to 4051, leave a total of only four competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.
19. **Meridian, Mississippi:** SCI and Alderwoods have a combined market share of about 100 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 3870 points, from 6130 to 10,000, and create a virtual monopoly of meaningful competitors.
20. **Miami-Dade County, Florida:** SCI and Alderwoods have a combined market share of about 100 percent of a market limited to competitors and their facilities that provide the customs and rituals that serve the Jewish community. The proposed acquisition would increase the HHI by about 4666 points, from 5334 to 10,000, and create a virtual monopoly of meaningful competitors.

21. **Newton, Mississippi:** SCI and Alderwoods have a combined market share of about 100 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 3856 points, from 6144 to 10,000, and create a virtual monopoly of meaningful competitors.
22. **Odessa, Texas:** SCI and Alderwoods have a combined market share of about 75 percent. The proposed acquisition would increase the HHI by about 1605 points, from 4433 to 6038, leave a total of only three competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.
23. **Port Orange, Florida:** SCI and Alderwoods have a combined market share of about 36 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 631 points, from 2068 to 2699, leave a total of only five meaningful competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.
24. **Northern Rockland County, New York:** SCI and Alderwoods have a combined market share of about 70 percent. The proposed acquisition would increase the HHI by about 2120 points, from 3103 to 5223, leave a total of only four competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.
25. **Seguin, Texas:** SCI and Alderwoods have a combined market share of about 81 percent. The proposed acquisition would increase the HHI by about 1970 points, from 4724 to 6694, and leave a total of only three competitors.
26. **Tulare, California:** SCI and Alderwoods have a combined market share of about 38 percent. The proposed acquisition would increase the HHI by about 716 points, from 4575 to 5291, and create a virtual duopoly.
27. **Southern Ventura County, California:** SCI and Alderwoods have a combined market share of about 65 percent. The proposed acquisition would increase the HHI by about 908 points, from 3591 to 4499, leave a total of only four competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.
28. **Yakima, Washington:** SCI and Alderwoods have a combined market share of about 83 percent. The proposed acquisition would increase the HHI by about 2582 points, from 4599 to 7181, and create a virtual

duopoly.

29. **Yuma, Arizona:** SCI and Alderwoods have a combined market share of about 83 percent. The proposed acquisition would increase the HHI by about 2809 points, from 4418 to 7227, and leave a total of only three competitors.

(b) In the cemetery service markets:

1. **Abilene, Texas:** SCI and Alderwoods have a combined market share of about 88 percent. The proposed acquisition would increase the HHI by about 2341 points, from 5523 to 7864, leave a total of only three competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.
2. **Baton Rouge, Louisiana:** SCI and Alderwoods have a combined market share of about 81 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 2989 points, from 3928 to 6917, and create a virtual duopoly of meaningful competitors.
3. **Bradenton and Palmetto, Florida:** SCI and Alderwoods have a combined market share of about 98 percent. The proposed acquisition would increase the HHI by about 3579 points, from 6108 to 9687, and create a virtual monopoly.
4. **Broward County, Florida:** SCI and Alderwoods have a combined market share of about 95 percent of a market limited to competitors and their facilities that provide the customs and rituals that serve the Jewish community. The proposed acquisition would increase the HHI by about 2604 points, from 6451 to 9055, and create a virtual duopoly of meaningful competitors.
5. **Columbia and Lexington, South Carolina:** SCI and Alderwoods have a combined market share of about 81 percent. The proposed acquisition would increase the HHI by about 3202 points, from 3518 to 6720, and leave a total of only three competitors.
6. **Conroe, Texas:** SCI and Alderwoods have a combined market share of about 82 percent. The proposed acquisition would increase the HHI by about 3097 points, from 3757 to 6854, leave a total of only three

meaningful competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.

7. **Fort Myers, Florida:** SCI and Alderwoods have a combined market share of about 92 percent. The proposed acquisition would increase the HHI by about 4189 points, from 4288 to 8477, and create a virtual duopoly.
8. **Macon, Georgia:** SCI and Alderwoods have a combined market share of about 48 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 914 points, from 2169 to 3083, leave a total of only four meaningful competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.
9. **Miami-Dade County, Florida:** SCI and Alderwoods have a combined market share of about 46 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 779 points, from 2766 to 3545, leave a total of only four meaningful competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.
10. **Memphis, Tennessee:** SCI and Alderwoods have a combined market share of about 63 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 1941 points, from 2534 to 4475, and leave a total of only four meaningful competitors.
11. **Nashville, Tennessee:** SCI and Alderwoods have a combined market share of about 68 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 1910 points, from 3173 to 5083, and leave a total of only three meaningful competitors.
12. **Ventura County, California:** SCI and Alderwoods have a combined market share of about 42 percent of a market limited to facilities that serve certain demographic segments of the population. The proposed acquisition would increase the HHI by about 858 points, from 2379 to 3237, leave a total of only four meaningful competitors, and eliminate one of two competitors that are the first and second choices for a substantial number of consumers.

18. SCI has a contract with a Dignity Memorial affiliate and Alderwoods also has funeral service facilities in each of the following highly concentrated local areas:

1. **Anchorage, Alaska:** The SCI Dignity Memorial affiliate and Alderwoods have a combined market share of about 81 percent. The market has only two other competitors.
2. **Hobbs, New Mexico:** The SCI Dignity Memorial affiliate and Alderwoods have a combined market share of about 68 percent. The market has only two other competitors.
3. **Klamath Falls, Oregon:** The SCI Dignity Memorial affiliate and Alderwoods have a combined market share of about 65 percent. The market has only two other competitors.
4. **Mansfield, Ohio:** The SCI Dignity Memorial affiliate and Alderwoods have a combined market share of about 70 percent. The market has only three other competitors.
5. **Pascagoula, Mississippi:** The SCI Dignity Memorial affiliate and Alderwoods have a combined market share of about 70 percent of a market limited to facilities that serve certain demographic segments of the population. The market has only one other meaningful competitor.
6. **Williamsburg, Virginia:** The SCI Dignity Memorial affiliate and Alderwoods have a combined market share of about 100 percent of a market limited to facilities that serve certain demographic segments of the population. There are no other meaningful competitors.

IX. Entry Conditions

19. Entry would not be timely, likely, or sufficient to prevent anticompetitive effects.

X. Effects of the Acquisition

20. The acquisition may substantially lessen competition in the 29 funeral service relevant markets identified in Paragraph 17(a) and the 12 cemetery service relevant markets identified in Paragraph 17(b) in which SCI and Alderwoods both own and operate funeral homes or cemeteries in the following ways, among others:

- (a) by eliminating direct competition between Respondents SCI and Alderwoods;

- (b) by increasing the likelihood that Respondent SCI will unilaterally exercise market power; or
- (c) by increasing the likelihood of, or facilitating, coordinated interaction among remaining competitively significant firms;

each of which increases the likelihood of an increase in the prices of funeral services and their associated products, or cemetery services and their associated products and property; or that the services, or the quality of services, provided to funeral and cemetery service customers will decrease.

21. In 19 funeral service markets and nine cemetery service markets identified in Paragraph 17, the acquisition will increase the likelihood that Respondent SCI will unilaterally exercise market power in one of two ways:

- (a) by increasing prices or reducing services generally in markets in which it will have a monopoly or near-monopoly market share post-acquisition; or
- (b) by increasing prices or reducing services where it has a significant, but not a monopoly or near-monopoly market share post-acquisition, and owns funeral homes or cemeteries that are the first and second choices for a substantial number of consumers (due to: their appeal to specific religious or ethnic groups; the physical proximity of their facilities; or their provision of traditional, high-end funeral services) so that it will benefit from: (i) the increase in price (or decrease in services) at the facilities of first choice for consumers and (ii) the business moving from the facilities of first choice for consumers to their second choices.

22. In 15 funeral service markets and four cemetery service markets identified in Paragraph 17, the acquisition will increase the likelihood of coordinated interaction. In these highly concentrated markets, the merger will facilitate coordination by the small number of remaining competitively significant firms by facilitating: (a) agreement upon terms of coordination; (b) opportunities to monitor compliance with those terms of agreement; and (c) the ability of the firms in the market to punish firms that deviate from the terms of agreement.

23. The acquisition also may substantially lessen competition in the six funeral service relevant markets identified in Paragraph 18 in which SCI has a license agreement or other contractual relationship with a Dignity Memorial affiliate and in which Alderwoods owns and operates a funeral home. Because of the danger that SCI and the Dignity Memorial affiliate will coordinate on pricing or the quality or level of services offered, the lessening of competition may occur in the following ways, among others:

- (a) by eliminating direct competition between the Dignity Memorial affiliate and Alderwoods; or
- (b) by increasing the likelihood of, or facilitating, coordinated interaction among all competitively significant firms;

each of which increases the likelihood of an increase in the prices of funeral services and their associated products, or that the services, or the quality of services, provided to funeral service customers will decrease.

XI. Violations Charged

24. The agreement described in Paragraph 7 constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, Federal Trade Commission on this twenty-first day of November, 2006, issues its Complaint against said Respondents.

By the Commission.

Donald S. Clark
Secretary

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