

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

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

_____)
In the Matter of)
)
Service Corporation International,)
a corporation.) Docket No. C-4275
)
_____)

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 Palm Mortuary, Inc. (“Palm”), 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

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. SCI owns and operates 1,302 funeral homes and 369 cemeteries world-wide (including 208 combination locations) and 1,122 funeral homes and 356 cemeteries in the United States. SCI, under the Davis trade name, operates one standalone funeral home facility and one funeral home and cemetery combination facility within the Las Vegas metropolitan area of Clark County, Nevada. SCI’s revenues from all operations in 2008 were approximately \$2.1 billion.

II. JURISDICTION

3. 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 FTC Act, 15 U.S.C. § 44.

III. THE PROPOSED ACQUISITION

4. Pursuant to an Equity Purchase Agreement dated August 5, 2009, SCI proposes to purchase all of the outstanding voting securities of Palm Mortuary, Inc. (“the Acquisition”).

5. The Acquisition would combine the first and third largest providers of cemetery services and associated merchandise and property in the relevant geographic market. Respondent SCI and Palm both own and operate cemetery service facilities in the Las Vegas metropolitan area of Clark County, Nevada, and compete and promote their businesses based on name recognition, reputation, location, price, range of available services, quality of service, associated product offerings, and the appearance of facilities.

IV. RELEVANT PRODUCT MARKET

6. The relevant line of commerce in which to analyze the Acquisition is the provision and sale of cemetery services and 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.

V. RELEVANT GEOGRAPHIC MARKET

7. The relevant geographic market in which to assess the competitive effects of the Acquisition is the Las Vegas, Nevada, metropolitan area.

VI. CONCENTRATION

8. The relevant market for the provision and sale of cemetery services in the Las Vegas metropolitan area is highly concentrated, and the Acquisition will substantially increase concentration as measured by the Herfindahl-Hirschman Index (“HHI”).

9. Post-acquisition, SCI would have a market share of about 76 percent in the market for cemetery services in the Las Vegas metropolitan area. The Acquisition would increase the HHI by about 1876 points, from 4385 to 6261, leaving only two meaningful competitors and eliminating one of two competitors that are the first and second choices for a substantial number of consumers.

VII. ENTRY CONDITIONS

10. Entry in the relevant market would not be timely, likely, or sufficient to prevent anticompetitive effects.

VIII. EFFECTS OF THE ACQUISITION

11. The Acquisition, if consummated, may substantially lessen competition in the cemetery services market in the Las Vegas metropolitan area, identified in Paragraphs 6 and 7 in which SCI and Palm both own and operate cemeteries, in the following ways, among others:

- (a) by eliminating direct competition between SCI and Palm;
- (b) by increasing the likelihood that Respondent SCI will unilaterally exercise market power; or
- (c) by increasing the likelihood of, or facilitating, coordinated interaction between or among participants in the relevant product market.

IX. VIOLATIONS CHARGED

12. The agreement described in Paragraph 4 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and the 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-fourth day of November, 2009, issues its Complaint against said Respondent.

By the Commission.

Donald S. Clark
Secretary

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