

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



IN THE MATTER OF)
)
SERVICE CORPORATION INTERNATIONAL,)
)
A CORPORATION.)
)
_____)

DOCKET No. C-4275

**PETITION FOR APPROVAL OF PROPOSED DIVESTITURE
TO LEGACY FUNERAL HOLDINGS OF NEVADA, LLC**

Pursuant to Section 2.41(f) of the Federal Trade Commission ("Commission") Rules of Practice and Procedure, 16 C.F.R. § 2.41(f) (2006), and Paragraph 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") petitions the Commission to approve the divestiture to Legacy Funeral Holdings of Nevada, LLC ("Legacy Nevada") of the Divestiture Business.

The Divestiture Business associated with these facilities as defined in the Decision and Order will be sold to Legacy Funeral Holdings of Nevada, LLC pursuant to the ASSET SALE AGREEMENT, (the "Divestiture Agreement"), by and among Legacy Funeral Holdings of Nevada, LLC and Alderwoods (Nevada), Inc., a subsidiary of SCI. The executed Divestiture Agreement is attached as Confidential Exhibit A.

Background

On November 6, 2009, SCI executed an Agreement Containing Consent Orders that included the Decision and Order and an Order to Hold Separate and Maintain Assets (collectively, the "Consent Agreement") to settle the Commission's charges that the proposed acquisition by SCI of Palm Mortuary, Inc. would violate Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and Section 7 of the Clayton Act, 15 U.S.C. § 18. On November 25, 2009, the Commission accepted the Consent Agreement for public comment. On December 3, 2009, SCI consummated its acquisition of Palm Mortuary. Palm Mortuary is now a wholly owned subsidiary of SCI. The Consent Agreement is currently before the Commission for final approval and issuance of the Decision and Order.

Because Confidential Exhibit A to this petition contains confidential and competitively sensitive business information relating to the sale of the Divestiture Assets, Respondent SCI has redacted Confidential Exhibit A from the public version of this petition. Disclosure of the Divestiture Agreement would harm SCI and Legacy Funeral Holdings of Nevada, LLC, harm to the ongoing competitiveness of the Divestiture Business, and impair SCI's ability to comply with its obligations under the Consent Agreement. According to 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) (2009), Respondent SCI requests that the confidential version of this Petition and the information contained herein be accorded 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) (2009). 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 and Legacy Nevada's desire to complete the proposed divestiture of the Divestiture Assets as soon as possible following receipt of Commission approval. All conditions other than board of director approval of Alderwoods (Nevada), Inc. and board of manager approval of Legacy Nevada, both of which are anticipated within 15 days of the date of the Divestiture Agreement, and Commission approval have already been satisfied, so that SCI (through Alderwoods (Nevada), Inc.) and Legacy Nevada are in a position to close the divestiture in January, 2010. Approval is also required by the Attorney General of the State of Nevada.¹ To preserve the current competitiveness the Divestiture Business, SCI and Legacy Nevada desire to close the contemplated transaction as soon as possible, and in any event on or before the 21st of January 2010.

Prompt consummation will further the purposes of the Decision and Order and is in the interests of the public, Legacy Nevada, and the Respondent SCI, because it will allow Legacy Nevada to move forward with its business plans for the competitive operation of the Divestiture Business. 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) (2006), limit the public comment period to the customary 30-

¹ The approval of the Nevada Attorney General is required according to a Final Judgment approved by a U.S. District Court Judge in State of Nevada v. Service Corporation International, No. 2:09-cv-02248 (D.Nev., Dec. 15, 2009). Legacy Nevada will also be required to obtain certain approvals from state regulatory agencies in connection with the transfer of the licenses for these properties. Legacy Nevada does not expect to have any difficulty obtaining these approvals, which are obtained post-closing in Nevada. After closing, Legacy Nevada will obtain transfers of the licenses for these facilities once the state regulatory agencies complete their routine inspections.

day period, and grant this petition by approving the divestiture of the Divestiture Assets to Legacy Nevada pursuant to the above-referenced Sale Agreement as soon as practicable after the close of the public comment period.

I. The Divestiture Agreement Is Consistent with the Decision and Order

Paragraph II. A. of the Decision and Order requires SCI to divest the Divestiture Assets (as defined in the Decision and Order) within 90 from the Acquisition Date on which SCI's acquisition of Palm Mortuary, Inc. is consummated, which occurred on December 3, 2009. Pursuant to this requirement, SCI has diligently sought buyers that would be acceptable to the Commission over several months preceding Commission action on the Consent Agreement, through an auction process that sought competing bids for the Divestiture Business. On December 30, 2009, SCI caused Alderwoods (Nevada), Inc. to enter into the Divestiture Agreement with the highest bidder, Legacy Nevada.

The Divestiture Agreement with Legacy Nevada complies with the requirements of Paragraph II of the Decision and Order. Paragraph II.A. requires that Respondent divest the Divestiture Business, absolutely and in good faith. Legacy Nevada will acquire the Divestiture Business pursuant to Section 1.1 of the Divestiture Agreement. Accordingly, Respondent SCI requests Commission approval of the proposed divestitures pursuant to Paragraph II.A. of the Decision and Order.

II. The Proposed Acquirer Will Be an Effective Competitor

Legacy Nevada is wholly-owned by Legacy Funeral Holdings, Inc., which owns and operates funeral homes and cemeteries in Texas, and together with Legacy Funeral Holdings of Louisiana, LLC and Legacy Funeral Holdings of Mississippi, LLC (which own and operate funeral homes and cemeteries in Louisiana and Mississippi respectively) are owned by Michael L. Soper and are collectively referred to as Legacy Holdings. Legacy Holdings has extensive experience in acquiring and operating funeral homes and cemeteries, and has the financial wherewithal to make this acquisition. The proposed acquisition of the Divestiture Assets by Legacy Nevada will assure that the Divestiture Business remains a strong and effective competitor for the provision and sale of cemetery services and associated products and property in the Las Vegas, Nevada metropolitan area.

Background

Legacy Holdings, headquartered in Houston, Texas, currently operates 11 funeral homes, 3 cemeteries, and one crematory in Texas, Louisiana, and Mississippi. The Legacy Holdings companies have more than 170 employees.

Michael Soper, owner, President, and CEO of the Legacy Holdings companies, has been involved in the death care industry for twenty years. Taylor Greene has worked alongside Mr. Soper as Chief Operating Officer since 2002, along with Mark Morris as Senior Vice President – Cemetery Operations since 2006, and Harry Drew as Controller since 2008. Messrs. Soper, Greene, and Morris are assisted in operating the Legacy Holdings' facilities by three regional managers, Joe Thompson, James Morrison, and William Wimberly. Together, these Legacy

Holdings officers have approximately 170 years of experience in the industry, including experience owning, operating, and acquiring funeral homes and cemeteries. Three additional members of the Legacy Group's Board of Advisors each have additional decades of experience in funeral home management and other aspects of the death care industry. A description of these individuals appears below:

MICHAEL L. SOPER – President & Chief Executive Officer, 1998 - present

	Memorial Pre-Care, Inc. President
1991-1998	Southwest Guaranty Trust Company, NA Vice President, Funeral & Cemetery Division
1990	Kanaly Trust Company Marketing Representative
1989	Texas Christian University, Bachelor of Science

TAYLOR A. GREENE, CPA - Executive Vice President & Chief Operating Officer, 2002 - present

1999-2002	Service Corporation International
2000-2002	Sr. Vice President-Operations, SCI Main Street Region
1999-2000	Vice President-Operations, SCI Central Region
1992-1999	Equity Corporation International
1996-1999	Vice President-Funeral Operations
1993-1996	Financial Analyst/Special Projects-Funeral Operations
1992-1993	Asst. Controller
1991-1992	Basic Capital Management Staff Accountant
1990-1991	Electronic Data Systems (EDS)
1989	Baylor University, Bachelor of Business Administration Certified Public Accountant

P. MARK MORRIS, CPA – Senior Vice President, Cemetery Operations, 2006 - present

2000-Present East Texas Cemetery Services, Inc.
President

1994-1999 Equity Corporation International, Cemetery Division,
Senior Vice President

1989-1991 Arlington Corporation
Controller

1985-1989 Golden Era Services, Inc.
Controller

1980-1985 Arthur Young & Company
Audit Staff, Certified Public Accountant

JAMES STANLEY MORRISON- Legacy Funeral Holdings, Inc. Regional Director/Texas & New Mexico, 2005-Present

1999-2003 Service Corporation International
East Texas Area Manager

1994-1998 Equity Corporation International
East Texas Area Manager

1990-1994 Texas Panhandle Region, Equity Corporation international
Manager/Funeral Director

1988-1990 Texas Panhandle Region, Service Corporation International
Manager/Funeral Director

1970-1988 Morrison Funeral Directors, Dumas, Stratford and Sunray, Texas
Owner/Funeral Director

1970 Commonwealth College of Sciences, Houston, Texas
Mortuary Science Degree

WILLIAM WIMBERLEY - Legacy Funeral Holdings, Inc. Regional Director, Louisiana & Mississippi, June 2006-Present

2000-2006 Service Corporation International
Market Manager, 48 locations
Mississippi, Louisiana, Alabama, Florida

1995-1999 Settegast-Kopf, Company, Houston, Texas
Funeral Director & Embalmer

1994-1995 LaFond Ardoin Funeral Homes, Opelousas, Louisiana
Funeral Director & Embalmer

1992-1994 University of Southwestern Louisiana
Commonwealth Institute of Funeral Services
License Funeral Director & Embalmer

1988-1992 United States Army – Infantry
Communications Sergeant

JOSEPH G. THOMPSON - Legacy Funeral Holdings, Inc.
West Texas Regional Manager, 2007- Present

2002-2007 Service Corporation International
General Manager, National Memorial Park and Funeral Home General Manager,
Maryland National Memorial Park

1999-2002 Stewart Enterprises
General Manager, Fort Lincoln Memorial Park & Funeral Home

1990-1999 Equity Corporation International
Director, Service & Development, Cemetery Division

1987-1990 Golden Era Services
Manager, Physical Operations, Woodlawn Memorial Park and Forest Lawn Memorial
Park

1979-1987 Holloman Brown Funeral Services
Manager, Colonial Grove Memorial Park & Holloman Brown Monument Co.

1976-1979 Kanawha Valley Memory Gardens
Grounds Superintendent

1973-1976 Fort Hill Memorial Park
Maintenance worker

HARRY C. DREW, CMA, CFM – Legacy Funeral Holdings, Inc. Controller,
2008 - Present

2007-2008 Camden Property Trust
Manager, Financial Reporting

2001-2007 Service Corporation International
Director, Cemetery Financial Analysis
Manager, Property & Merchandise Accounting
Manager, Cemetery Analysis

1999-2001 Carriage Services
Manager, SEC Reporting
Manager, Cemetery & Funeral Compliance

1998-1999 C.R. Bard
Accounting Supervisor

1995-1998 Equity Corporation International
Accounting Manager, Cemetery Division
Acquisition Accountant, Cemetery Division

1994-1995 Key Corp
401(k) Recordkeeping

1990-1994 Goodyear Tire & Rubber Company
Staff Accountant

1989 The Ohio State University, Bachelor of Science in Business Administration

2004 University of Houston, Master of Science in Accounting

Additional Members of Advisory Board

FRANK J. BANTLE, SR.

1989-present York Casket & Matthews International
Consultant Former owner, Houston Casket Company and York
Southwest
Principal owner in the initial public offering of York Group, Inc.

1979-1988 Batesville Casket Company
Sales Representative

1963-1979 Orleans Manufacturing Company, New Orleans, Louisiana
Casket Manufacturing & Distributing

WILLIAM E. MERCER, CPA

2006 Retired

1989-2005 National Fiduciary Services, N.A.
Southwest Guaranty Trust Company, NA
Chairman of the Board and Chief Executive Officer

1970-1989 Service Corporation International
 Executive Vice President, Chief Financial Officer
 Member of Board of Directors

1963-1970 Arthur Young & Company
 Certified Public Accountant and Audit Manager

B. KRIS SEALE, CPA

1985-Present Funeral Directors Life Insurance Company
 President & CEO
 Directors Investment Group
 Chairman of the Board

1985 Baylor University, Bachelor of Business Administration
 Accounting and Finance
 Certified Public Accountant

Financial Capability

Legacy Nevada has the financial ability to complete this transaction promptly following Commission approval. Legacy Holdings has secured full appraisals, surveys, property condition assessment reports on all the buildings, and Phase I environmental studies on the Divestiture Assets. Legacy Holdings has secured independent financing for this transaction from Funeral Directors Life Insurance Company ("FDLIC," *see* www.funeraldirectorslife.com), a Texas legal reserve life insurance company and one of the strongest providers of burial insurance in North American with an A.M. Best Company rating of A- (Excellent). Mr. Soper and Legacy Holdings have enjoyed a long relationship with FDLIC that includes other financing and the marketing of FDLIC s pre-need funeral products to the general public. FDLIC has committed to provide all of the financing required to complete Legacy Nevada's contemplated acquisition of Davis from SCI through a long term mortgage loan on the Davis real estate, including the cemetery and funeral

home located at 6200 South Eastern Avenue in Las Vegas, NV. Legacy Holdings has invested conservatively over \$100,000 in due diligence expenses toward this transaction.

Operations Experience

Legacy Holdings currently successfully operates 11 funeral homes, 3 cemeteries, and one crematory in Texas, Louisiana, and Mississippi. All but one of these facilities were acquired from SCI in 2007, following approval by the Federal Trade Commission of SCI's divestiture of those facilities in connection with SCI's acquisition of the Alderwoods Group. Legacy Holdings also acquired a funeral home in Baker, Louisiana in 2009. Legacy Holdings has been successful with these businesses, as described in further detail in its separately submitted Confidential Petition of Legacy Nevada in Support of this Petition. Legacy Holdings' success in operating these facilities encouraged it to acquire the Divestiture Assets offered in this divestiture. Legacy Holdings' experience shows that it has succeeded because its management remains attuned to local market circumstances and forges strong personal relationships with the employees at these facilities.

Legacy Holdings' present locations are as follows:

Legacy Funeral Holdings, Inc.

Darling Mouser Funeral Home	945 Palm Blvd, Brownsville, TX 78520
Elmwood Funeral Home	5750 Hwy 277 South, Abilene, TX 79606
Elmwood Memorial Park	5750 Hwy 277 South, Abilene, TX 79606
Harper Talasek Funeral Home	506 N. 38 th St, Killeen, TX 76543

Harper Talasek Funeral Home	500 W. Barton Ave, Temple, TX 76501
Palmer Mortuary	1116 N. Austin St, Seguin, TX 78155
Trevino Funeral Home	1355 Old Port Isabel Rd, Brownsville, TX 78521
Sunset Funeral Home	6801 E. Hwy 80, Odessa, TX 79762
Sunset Memorial Gardens	6801 E. Hwy 80, Odessa, TX 79762

Legacy Funeral Holdings of Louisiana, LLC

Ascension Funeral Home	426 West New River St, Gonzales, LA 70737
Baker Funeral Home	6401 Groom Road, Baker, LA 70714
Resthaven Gardens of Memory Funeral Home	11817 Jefferson Hwy, Baton Rouge, LA 70816
Resthaven Gardens of Memory	11817 Jefferson Hwy, Baton Rouge, LA 70816

Legacy Funeral Holdings of Mississippi, LLC

James F. Webb Funeral Home	2514 7 th St, Meridian, MS 39301
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The Legacy Nevada anticipates that, consistent with the history of Legacy Holdings' other acquisitions, it will offer employment to almost all of the individuals currently employed at Davis Funeral Home and Cemetery, including all of the senior management, on terms and at compensation roughly equivalent to existing particulars. Hiring existing employees will help ensure the continuity of the Divestiture Business, allowing Legacy Nevada to compete effectively from the date of acquisition forward. Legacy Holdings takes pride in its ability to be financially competitive while maintaining the local staff, which contributes to the long-term success of each business. SCI has agreed in the Divestiture Agreement not to solicit the

employment of any such employee hired by Legacy Holdings for a period of two years following closing, as required by Paragraph II.J. of the Decision and Order.

Legacy Holdings has sufficient operating expertise to not only ensure the continued competitiveness of the Divestiture Business, but to enhance its ability to compete. As a result, Legacy Nevada expects to increase both the market share and profitability of the Divestiture Business, as Legacy Holdings has done with other facilities it has acquired.

III. The Sale Agreement Will Achieve the Purposes of the Decision and Order and Restore Full Competition for Cemetery Services the Las Vegas Metropolitan Area

The proposed divestiture of the Divestiture Assets to Legacy Nevada will achieve the purposes of the Decision and Order. Through the sale of the Divestiture Assets to Legacy Nevada, Legacy Nevada will essentially be assuming the former cemetery operations of SCI in the Las Vegas metropolitan area. SCI will be assuming the operations of Palm Mortuary, Inc. Consummation of the Divestiture Agreement will cause the competitive conditions for cemetery services in the Las Vegas metropolitan area to be identical to competitive conditions before SCI's acquisition of Palm.

Legacy Holdings is an experienced operator of funeral homes and cemeteries, with a proven track record of successfully operating and enhancing the funeral homes and cemeteries it has acquired in the past, and those facilities are similar to the facilities constituting the Divestiture Assets. Legacy Holdings enjoys a strong financial position that will enable it to complete this acquisition, continue the operation of the Divestiture Assets and enhance their

competitiveness in the market for funeral and cemetery services. Combining the Divestiture Assets with Legacy Holdings' experience and financial wherewithal will ensure that the objectives of the Commission's Decision and Order will be realized.

The proposed divestiture will result in no harm to competition. Legacy Holdings does not currently operate any cemetery or funeral home assets in the Las Vegas metropolitan area or in any other area of Nevada. Consequently, there is no overlap between the operations of Legacy Holdings and the Divestiture Assets, and the proposed divestiture does not raise any competitive issue.

In March 2007, the Commission approved Legacy Holdings as a purchaser of divested 13 separate cemetery and funeral home businesses in an earlier Commission proceeding in the cemetery and funeral home industries. See <http://www.ftc.gov/os/caselist/0610156/070323letteLegacyImageVersion.pdf> (March 21, 2007) (letter from Commission approving Legacy Funeral Holdings, LLC,² Legacy Funeral Holdings of Louisiana, LLC and Legacy Funeral Holdings of Mississippi, LLC as purchaser of divested funeral homes and cemeteries). Legacy Holdings has demonstrated that it can successfully operate the Divestiture Assets in this proceeding, also.

The proposed divestiture will remedy any anticompetitive effects that could result from the Acquisition. The Divestiture Agreement 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 proposed Acquisition and remedying the

² Legacy Funeral Holdings, Inc. is the successor to Legacy Funeral Holdings, LLC.

lessening of competition alleged in the Commission's Complaint.

Conclusion

For the foregoing reasons, the Respondents respectfully request that the Commission approve the proposed divestiture of the Divestiture Assets to Legacy Nevada, as embodied in the Sale Agreement with Legacy Nevada, as soon as practicable after expiration of the public comment period.

DECEMBER 30, 2009

Respectfully submitted,

A handwritten signature in black ink that reads "David J. Laing". The signature is written in a cursive style with a large, prominent "D" and "L".

DAVID J. LAING
COUNSEL FOR RESPONDENT SERVICE CORPORATION
INTERNATIONAL

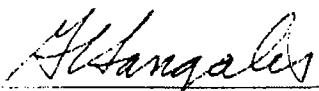
BAKER & MCKENZIE
815 Connecticut Avenue, NW
Washington, DC 20006

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

_____)	
IN THE MATTER OF)	
)	
SERVICE CORPORATION INTERNATIONAL)	DOCKET No. C-4275
)	
A CORPORATION.)	
)	
_____)	

CERTIFICATION OF SERVICE CORPORATION INTERNATIONAL

Insofar as facts and information stated in this Petition pertain to Service Corporation International, its subsidiaries, and its assets, I certify under 28 U.S.C. § 1746, that the facts and information are, to the best of my knowledge, true, correct, and complete.



GREGORY T. SANGALIS
SENIOR VICE PRESIDENT AND GENERAL COUNSEL
SERVICE CORPORATION INTERNATIONAL

Dated: December 30, 2009

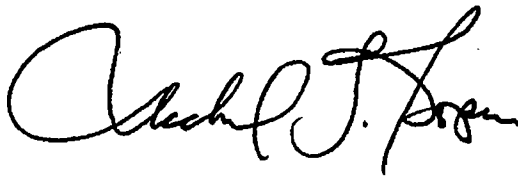
UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

IN THE MATTER OF)	
)	
SERVICE CORPORATION INTERNATIONAL)	Docket No. C-4275
)	
A CORPORATION.)	
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CERTIFICATION OF LEGACY HOLDINGS

The facts and information related in the foregoing Petition, insofar as they pertain to Legacy Funeral Holdings, Inc., Legacy Funeral Holdings Nevada, LLC, Legacy Funeral Holdings of Louisiana, LLC, and Legacy Funeral Holdings of Mississippi, LLC, 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.



MICHAEL L. SOPER
PRESIDENT
LEGACY FUNERAL HOLDINGS, INC.
LEGACY FUNERAL HOLDINGS NEVADA, LLC
LEGACY FUNERAL HOLDINGS OF LOUISIANA, LLC
LEGACY FUNERAL HOLDINGS OF MISSISSIPPI, LLC

Dated: December 30, 2009

EXHIBIT A

[REDACTED FROM THE PUBLIC RECORD VERSION]