

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No.
	)	
<b>B. K. HENRY FUNERAL CHAPEL, INC.,</b>	)	
a District of Columbia corporation;	)	
<b>BRIAN K. HENRY</b> , individually and as an officer of	)	
the corporation; and	)	
<b>LISA HENRY</b> , individually and as an officer of the	)	
corporation;	)	
	)	
Defendants.	)	

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**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE AND OTHER RELIEF**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (“Commission”), by its undersigned attorneys, for its Complaint alleges:

1. Plaintiff brings this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 56(a), to obtain monetary civil penalties, a permanent injunction, and other equitable relief for Defendants’ violations of the Commission’s Trade Regulation Rule Concerning Funeral Industry Practices (“Rule” or “Funeral Rule”), 16 C.F.R. Part 453.

**JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355 and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a). This action arises under 15 U.S.C. § 45(a)(1).

3. Venue is proper in this district under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b-c) and 1395(a).

**PLAINTIFF**

4. This action is brought by the United States of America on behalf of the Federal Trade Commission pursuant to 15 U.S.C. § 56. The Commission is an independent agency of the United States government given statutory authority and responsibility by the FTC Act, as amended, 15 U.S.C. §§ 41-58. The Commission is charged, inter alia, with enforcing Section 5 of the FTC Act, 15 U.S.C. § 45, which prohibits unfair and deceptive acts or practices in or affecting commerce. The Commission also is authorized by 15 U.S.C. § 57a(a)(1)(B) to issue trade regulation rules that “define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce” within the meaning of Section 5(a)(1), 15 U.S.C. § 45(a)(1), and may obtain civil penalties for rule violations pursuant to 15 U.S.C. § 45(m)(1)(A).

**DEFENDANT**

5. Defendant B. K. Henry Funeral Chapel, Inc. (“BKH”) is a District of Columbia corporation with its principal place of business located within the District of Columbia at 420 H Street, N.E., Washington, D.C. 20002. In connection with the matters alleged herein, Defendant BKH is located in or transacts business in this District.

6. Defendant Brian K. Henry is the President and an owner of Defendant BKH. His business address is the same as that of the corporate defendant. At all times material to this complaint, acting alone or in concert with others, Defendant Brian K. Henry has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Defendant BKH, including the acts and practices set forth in this complaint. In connection with

the matters alleged herein, Defendant Brian K. Henry transacts or has transacted business in this District.

7. Defendant Lisa Henry is the Vice-President/Secretary and an owner of Defendant BKH. Her business address is the same as that of the corporate defendant. At all times material to this complaint, acting alone or in concert with others, Defendant Lisa Henry has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Defendant BKH, including the acts and practices set forth in this complaint. In connection with the matters alleged herein, Defendant Lisa Henry transacts or has transacted business in this District.

#### **THE FUNERAL RULE**

8. The Funeral Rule, promulgated by the Commission under Section 18 of the FTC Act, 15 U.S.C. § 57a, became effective in its entirety on April 30, 1984, and since that date has remained in full force and effect. Amendments to the Funeral Rule were promulgated by the Commission under Section 18 of the FTC Act, 15 U.S.C. § 57a, and became effective on July 19, 1994. The Funeral Rule is codified at 16 C.F.R. Part 453.

#### **VIOLATIONS OF THE FUNERAL RULE**

9. At all times material herein, Defendants have been a “funeral provider,” as that term is defined in Section 453.1(i) of the Rule, 16 C.F.R. § 453.1(i), and have sold or offered to sell “funeral goods” and “funeral services,” as those terms are defined in Sections 453.1(h) and 453.1(j) of the Rule, 16 C.F.R. §§ 453.1(h) and 453.1(j).

10. In at least two separate incidents, in connection with selling or offering to sell funeral goods and funeral services, in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44, Defendants have violated the Funeral Rule by failing

to provide to each person who inquires in person about the offerings or prices of caskets or alternative containers a printed or typewritten casket price list, upon beginning discussion of, but in any event before showing, caskets or alternative containers, thereby violating 16 C.F.R. § 453.2(b)(2).

**CIVIL PENALTIES AND INJUNCTION**

11. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), authorizes the Court to award monetary civil penalties of not more than \$16,000 for each such violation of the Funeral Rule.

12. Defendants have violated the Funeral Rule as described above with knowledge as set forth in Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

13. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Funeral Rule constitutes an unfair or deceptive act or practice in violation of Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

14. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), provides that “unfair and deceptive acts or practices in or affecting commerce are hereby declared unlawful.”

15. Defendants sell and offer to sell funeral goods and funeral services in or affecting commerce as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

16. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue a permanent injunction enjoining Defendants from violating the FTC Act.

**PRAYER**

**WHEREFORE**, Plaintiff requests that this Court, pursuant to 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), and 53(b), and pursuant to its own equitable powers:

- (1) Enter judgment against Defendants and in favor of Plaintiff for the violations of the Funeral Rule and Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), alleged in this Complaint;
- (2) Award Plaintiff monetary civil penalties from Defendants for the violations of the Funeral Rule alleged in this Complaint;
- (3) Enjoin Defendants from violating the Funeral Rule and Section 5 of the FTC Act, 15 U.S.C. § 45; and
- (4) Award Plaintiff such additional relief as the Court may deem just and proper.

Dated: July 12, 2011

Respectfully submitted,

**OF COUNSEL:**

WILLARD K. TOM  
General Counsel

LOIS C. GREISMAN  
Associate Director  
Division of Marketing Practices

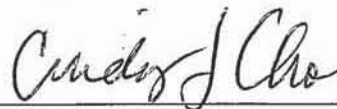
Craig Tregillus, Attorney  
Federal Trade Commission  
600 Pennsylvania Ave. N.W. - Rm. H-286  
(202) 326-2970 (Office)  
(202) 326-3395 (Facsimile)

**FOR THE UNITED STATES  
OF AMERICA:**

TONY WEST  
Assistant Attorney General

MAAME EWUSI-MENSAH FRIMPONG  
Acting Deputy Assistant Attorney General

KENNETH L. JOST  
Acting Director



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CINDY J. CHO  
Trial Attorney  
United States Department of Justice  
Office of Consumer Protection Litigation  
Washington, D.C. 20530  
(202) 532-4721 (Office)  
(202) 514-8742 (Facsimile)

RONALD C. MACHEN, JR.  
United States Attorney