



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

Division of Marketing Practices

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Direct Dial
202-326-3755

VIA FACSIMILE AND U.S. MAIL

January 14, 1997

Ronald A. Hast
Abbott & Hast Publications
4 Saint Lucia Place
Tiburon, CA 94920-1028

Dear Mr. Hast:

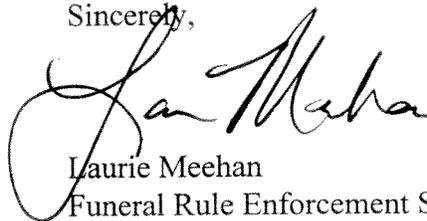
Thank you for your letter of December 20, 1996. I apologize for any delay in responding. In your letter, you request a staff opinion on whether it is a violation of the Funeral Rule for a funeral director, in circumstances where a person or family purchases a casket from a third party casket seller, to require that the person or family be present upon casket delivery. Your letter indicates that the purpose of the presence of the family would be "to confirm appropriate model, color and condition." During our conversation on December 19, 1996, you referenced the California law which prohibits use of a casket that has previously been a receptacle for a dead human body as relevant to a staff opinion on this matter.

The issue of whether, in circumstances involving the purchase of a casket from a third party seller, a funeral director may require a family or person's presence upon delivery of the casket was addressed by FTC staff in 1988. FTC staff opined that because the Funeral Rule prohibited conditioning funeral goods or services upon the purchase of any other funeral good or service, a funeral provider could not place unreasonable burdens on consumers that were tantamount to conditioning funeral arrangements upon the purchase of other funeral goods. 16 C.F.R. 453.4(b)(1) Accordingly, FTC staff determined that requiring a family's presence for a delivery of a third party casket, when a family has expressed a desire not to be present at delivery, was an unreasonable burden on a consumer's choice to purchase a casket from a third party seller.

California state law prohibits the use of a casket that has previously been used as a receptacle for a human body. Cal. Bus. & Prof. Code § 7702 (Deering 1984). Nothing in Section 7702 prevents a funeral home or director from requiring a family to inspect the casket prior to placing human remains in the casket. The timing of the inspection, however, need not be at delivery. It is staff's opinion that the concerns with respect to the Funeral Rule, California law and the delivery of caskets from third party sellers may easily be met through inspection at a mutually convenient time for the funeral home and the family. Further, such an inspection would not be an unreasonable burden on the consumer's choice of casket and services. Accordingly, the staff opinion remains that requiring the presence of a person or family at delivery of a third party casket is an unreasonable burden on a consumer's choice of funeral goods and services.

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Laurie Meehan". The signature is fluid and cursive, with a large initial "L" and "M".

Laurie Meehan
Funeral Rule Enforcement Staff