

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

v.

LARRY S. GLICKLER, an individual doing
business as Bradford-Connelly & Glickler
Funeral Home,

Defendant.

Civil Action No. 3:15-cv-19

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE AND OTHER
EQUITABLE 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 Defendant's 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 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(a), 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 45(a)(1))” and may obtain civil penalties for rule violations pursuant to 15 U.S.C. § 45(m)(1)(A).

DEFENDANT

5. Defendant Larry S. Glickler (Glickler) is an individual doing business as Bradford-Connelly & Glickler Funeral Home (BCG), located at 1849 Salem Avenue, Dayton, Ohio 45406. Glickler is the sole proprietor, owner, and a funeral director of BCG. At times material to this Complaint, acting alone or in concert with others, Glickler has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of BCG, including the acts and practices set forth in this Complaint. Glickler resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district.

THE FUNERAL RULE

6. 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.

7. Under the Rule, a funeral provider must show a printed or typewritten casket price list to people who inquire in person about the funeral provider's offerings or prices of caskets or alternative containers. The funeral provider must show the casket price list upon beginning discussion of, but in any event before showing, the caskets. 16 C.F.R. § 453.2(b)(2).

8. Under the Rule, a funeral provider must show a printed or typewritten outer burial container price list to people who inquire in person about the funeral provider's offerings or prices of outer burial containers. The funeral provider must show the outer burial container price list upon beginning discussion of, but in any event before showing, the outer burial containers. 16 C.F.R. § 453.2(b)(3).

9. Under the Rule, a funeral provider must give, for retention, a printed or typewritten general price list to people who inquire in person about the funeral provider's offerings or prices of funeral goods or funeral services. The funeral provider must give the general price list upon beginning discussion of any of the following: (A) the prices of funeral goods or funeral services; (B) the overall type of funeral service or disposition; or (C) specific funeral goods or funeral services offered by the funeral provider. 16 C.F.R. § 453.2(b)(4).

10. These requirements were promulgated as part of the Funeral Rule to ensure that “[c]onsumers have access to sufficient information to permit them to make informed decisions about which goods and services they want to purchase.” FTC FUNERAL RULE, STATEMENT OF BASIS AND PURPOSE, 47 Fed. Reg. 42260, 42260 (Sept. 24, 1982).

DEFENDANT’S BUSINESS PRACTICES

11. Defendant is a “funeral provider,” as that term is defined in Section 453.1(i) of the Rule, 16 C.F.R. § 453.1(i), and sells or offers to sell “funeral goods” and “funeral services,” as those terms are defined in Section 453.1(h) and 453.1(j) of the Rule, 16 C.F.R. § 453.1(h) and (j), respectively.

12. An employee of Defendant has discussed the offerings or prices of caskets or alternative containers with individuals who inquired in person about those items, without showing them a printed or typewritten casket price list upon beginning the discussion of, but in any event before showing, caskets or alternative containers.

13. An employee of Defendant has discussed the offerings or prices of outer burial containers with at least one individual who inquired in person about those items, without showing them a printed or typewritten outer burial container price list upon beginning the discussion of, but in any event before showing, outer burial containers.

14. An employee of Defendant has discussed the offerings or prices of funeral goods and funeral services with at least one individual who inquired in person about those items, without giving, for retention, a printed or typewritten general price list upon beginning discussion of: (A) the prices of funeral goods or funeral services; (B) the overall type of funeral service or disposition; or (C) specific funeral goods or funeral services offered by the funeral provider.

VIOLATIONS OF THE FUNERAL RULE

15. On at least two separate occasions, in connection with selling or offering to sell funeral goods and funeral services, Defendant violated the Funeral Rule, 16 C.F.R. § 453.2(b)(2), by failing to show an individual, who inquired in person about the offerings or prices of Defendant’s

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.

16. On at least one occasion, in connection with selling or offering to sell funeral goods and funeral services, Defendant violated the Funeral Rule, 16 C.F.R. § 453.2(b)(3), by failing to show an individual, who inquired in person about the offerings or prices of Defendant's outer burial containers, a printed or typewritten outer burial container price list upon beginning discussion of, but in any event before showing, outer burial containers.

17. On at least one occasion, in connection with selling or offering to sell funeral goods and funeral services, Defendant violated the Funeral Rule, 16 C.F.R. § 453.2(b)(4), by failing to give, for retention, to an individual, who inquired in person about the offerings or prices of Defendant's funeral goods or funeral services, a printed or typewritten general price list upon beginning discussion of: (A) the prices of funeral goods or funeral services; (B) the overall type of funeral service or disposition; and (C) specific funeral goods or funeral services offered by the funeral provider.

CIVIL PENALTIES AND INJUNCTION

18. 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 violation of the Funeral Rule.

See also 16 C.F.R. § 1.98(d).

19. Defendant has 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).

20. 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).

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

22. Defendant sells and offers 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.

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

PRAYER FOR RELIEF

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 Defendant 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 Defendant for the violations of the Funeral Rule alleged in this Complaint;

(3) Enjoin Defendant 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.

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