



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

Division of Marketing Practices

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April 16, 2009

Mr. David Nixon, President
Nixon Consulting, Inc.
P.O. Box 440
Chatham, IL 62629-0440

Dear Mr. Nixon:

You have requested clarification of the portion of Staff Opinion 07-2 that addressed the use of a vehicle to obtain death certificates.¹ That opinion stated staff's view that if the use of an automobile to obtain necessary permits and death certificates is "common to virtually all forms of disposition or arrangements" of a funeral provider, the cost should be included in the provider's basic services fee. The opinion added that a separate charge for the use of a vehicle could be included in the provider's Genems

¹ Staff Opinion 07-2 (Mar. 21, 2007), *available at* <http://www.ftc.gov/bcp/online/edcams/funerals/opinions/opinion07-2.pdf>.

² 16 C.F.R. § 453.2(b)(4)(A)-(M).

³ 16 C.F.R. § 453.1(p).

⁴ 16 C.F.R. § 453.2(b)(4).

services fee because the Rule requires funeral providers to itemize the prices of each of these copies.⁵

⁵ Nothing in the Rule, however, prevents a funeral provider from limiting the quantity of death certificates it will obtain as part of its basic services to the number of copies that is “common to virtually all forms of dispositions or arrangements,” provided that this limitation is spelled out in the description of the “principal basic services provided” in return for the basic services fee as required by § 453.2(b)(4)(iii)(C)(1) of the Rule, 16 CFR § 453.2(b)(4)(iii)(C)(1), and separately listing a fee in its GPL for additional copies.

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permits or death certificates as part of its basic services fee, and listing a separate fee on its GPL for any additional time and/or distance that may be required in unusual circumstances. A funeral provider will, of course, have the burden of demonstrating that any such limits are reasonable, and broad enough to encompass “virtually all dispositions or arrangements.”

As you know, 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 on the Commission or any individual Commissioner. However, they do reflect the views of FTC staff charged with enforcement of the Funeral Rule. Staff Funeral Rule opinions are routinely posted on the FTC website at <http://www.ftc.gov/bcp/online/edcams/funerals/staffopinions.shtm>.

Sincerely,

/s/

Craig Tregillus
Funeral Rule Coordinator