

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Timothy J. Muris, Chairman**
 Mozelle W. Thompson
 Orson Swindle
 Thomas B. Leary
 Pamela Jones Harbour

In the Matter of)	
)	
)	
VIRGINIA BOARD OF FUNERAL DIRECTORS)	Docket No.
AND EMBALMERS.)	
)	
)	

DECISION AND ORDER

The Federal Trade Commission (“Commission”) having initiated an investigation of certain acts and practices of the Virginia Board of Funeral Directors and Embalmers (the “Board”), hereinafter sometimes referred to as “Respondent,” and Respondent having been furnished thereafter with a copy of the draft of the Complaint that the Bureau of Competition presented to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), containing an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of the Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent has violated the said Act, and that a Complaint should issue stating its charges in that respect, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34 (2004), the Commission hereby makes the following jurisdictional findings and issues the following Decision and Order (“Order”):

1. Proposed Respondent, the Virginia Board of Funeral Directors and Embalmers, is an industry regulatory board established by the Commonwealth of Virginia with its principal office

and place of business located at 6603 West Broad St., 5th Fl. Richmond, VA 23230-1712.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondent, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED, that for the purposes of this Order, the following definitions shall apply:

- A. "Respondent" or "Board" means the Virginia Board of Funeral Directors and Embalmers, its officers, members, committees, subcommittees, representatives, agents, employees, successors and assigns.
- B. "At-need or preneed funeral products, goods, or services" means any product, good, or service that the Board is authorized to regulate under Title 54.1 of the Virginia Code, Va. Code Ann. §§ 54.1-100 to 116, 54.1-200 to 204, 54.1-2800 to 2825 (Michie 2003). For the purposes of this Order, at-need or preneed funeral products, goods, or services includes any products, goods or services that are advertised, offered for sale, or sold to be used in a funeral service at the time of death, while death is imminent, or at any other time.
- C. "Board licensee" or "licensee" means any person or corporation that is entitled under the rules of the Board to provide at-need or preneed funeral products, goods, or services to consumers.
- D. "Discounts from ordinary prices" means any reduction of the price ordinarily charged by a Board licensee in exchange for at-need or preneed funeral products, goods, or services.
- E. "Enforcing" a restriction or a regulation means any manner in which Respondent requires compliance with any of its regulations, including, but not limited to, investigations or hearings of purported violations of the regulation, dissemination of the terms or Board interpretations of the regulation in any manner to Board licensees, and assignments of penalties for any violation of the regulation.
- F. "Person" means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.
- G. "Prices" means any consideration proposed in exchange for at-need or preneed funeral products, goods, or services.

H. “Truthful and non-misleading advertisements” means any advertisements that would not

IT IS FURTHER ORDERED that, within ninety (90) days after the date this Order becomes final, Respondent shall prominently publish this Order, and the letter attached hereto as "Appendix," in the Newsletter for the Board of Funeral Directors and Embalmers.

V.

IT IS FURTHER ORDERED that, within thirty (30) days after the date this Order becomes

by written notice to Respondent, setting forth in detail the manner and form in which it has complied with this Order.

IX.

IT IS FURTHER ORDERED that this Order shall terminate twenty (20) years from the date on which this Order was issued by the Commission.

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED:

APPENDIX

(Letterhead of the Virginia Board of Funeral Directors and Embalmers)

Dear Licensee:

The Federal Trade Commission has ordered the Virginia Board of Funeral Directors and Embalmers (the “Board”) to cease and desist the enforcement of any rule or regulation restricting the use of truthful and non-misleading advertising of prices and discounts by licensees. A copy of the Commission’s Decision and Order is enclosed.

In order that you may readily understand the terms of the Order, we have set forth its essential provisions, although you must realize that the Order itself is controlling, rather than the following explanation of its provisions:

(1) The Board must cease and desist from enforcement of any regulation or restriction on Board licensees, including the Board regulation at 18 Va. Admin. Code § 65-30-50(C) (West 2003), that might prevent licensees from using truthful and non-misleading advertisements to notify consumers of prices, and discounts from ordinary prices, for at-need or preneed funeral products, goods, or services

(2) The Board must amend its rules to eliminate any regulation or restriction, including the Board regulation at 18 Va. Admin. Code § 65-30-50(C) (West 2003), that might prevent Board Licensees from using truthful and non-misleading advertisements to notify consumers of prices, and discounts from ordinary prices, for at-need or preneed funeral products, goods, or services.

Sincerely yours,

[appropriate Board member or officer]

Enclosure