

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

COMMISSIONERS: **Deborah Platt Majoras, Chairman**
 Pamela Jones Harbour
 Jon Leibowitz
 William E. Kovacic
 J. Thomas Rosch

In the Matter of

**MISSOURI BOARD OF EMBALMERS AND
FUNERAL DIRECTORS**

Docket No. C-

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the Missouri Board of Embalmers and Funeral Directors has violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

NATURE OF THE CASE

This case involves Respondent Missouri Board of Embalmers and Funeral Directors (the “Board”), which is the sole licensing authority for the practices of embalming and funeral directing in Missouri. The Board is composed of six members, five of whom must be licensed embalmers or funeral directors. At the time it adopted the regulation at issue in this matter, the Board included five licensed funeral directors. Funeral directors compete in the sale of funeral caskets at-need to consumers in Missouri. Respondent is authorized to promulgate, adopt and enforce rules that it deems necessary for the public good and consistent with the laws of the State of Missouri. The Missouri statute that created and empowered Respondent to regulate the professions of embalming and funeral directing includes a provision stating that its licensing qualifications and conditions (Mo. Rev. Stat. Chapter 333 (2005)) shall not apply “to any person

engaged simply in the furnishing of burial receptacles for the dead.” Mo. Rev. Stat. § 333.251 (2005). The Board promulgated a regulation that defined the practice of funeral directing to include selling funeral merchandise on an at-need basis to consumers in the State of Missouri. This regulation deterred competitive entry into the retail sale of funeral caskets.

RESPONDENT

1. The Board is an agency of the State of Missouri, established and existing pursuant to Mo. Rev. Stat. § 333.151, for the purpose of administering and enforcing Chapter 333 and portions of Chapter 436, Mo. Rev. Stat., and the regulations promulgated thereunder. It has authority to license and regulate those persons in the businesses of embalming and funeral directing in Missouri.
2. The Board’s principal office and place of business is located at 3605 Missouri Boulevard, Jefferson City, Missouri, 65102-0423.
3. The Board is comprised of six members; one public member and five members that hold a license in either funeral directing or embalming, or both. Each member is appointed by the

Act, as amended, 15 U.S.C. § 44. In particular, funeral directors in Missouri purchase and receive funeral caskets and other funeral merchandise that are shipped across state lines by manufacturers and suppliers in other locations, transfer substantial sums of money that cross state lines in payment for that merchandise, perform funerals for residents of other states, and receive substantial sums of money that cross state lines in payment for funeral services and merchandise including funeral caskets. Furthermore, the regulation at issue deterred competitors in other states from selling funeral caskets to Missouri consumers at need, and affected interstate commerce in funeral merchandise in neighboring states.

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

THE CHALLENGED CONDUCT

11. The “practice of funeral directing” is defined in Mo. Rev. Stat. § 333.011(7) (2005) as “[E]ngaging by an individual in the business of preparing, otherwise than by embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the

continued for approximately two years and may recur in the absence of the relief herein requested.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this _____ day of _____, 2007, issues its Complaint against Respondent Missouri Board of Embalmers and Funeral Directors.

By the Commission.

Donald S. Clark
Secretary

SEAL