

UNITED STATES OF AMERICA  
Federal Trade Commission  
WASHINGTON, D.C. 20580

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T. Scott Gilligan, Esq.  
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3734 Eastern Avenue  
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Dear Mr. Gilligan:

You have asked for a “clarification” of the applicability of staff opinion 15-1 to situations where there is “no claim that the consumer had inquired about the offering of caskets or containers.” That opinion stated staff’s view that a funeral provider violates the Funeral Rule if its personnel place a consumer in a casket display room to wait to speak to a funeral director without first showing the consumer a Casket Price List (“CPL”).<sup>1</sup>

The Funeral Rule requires a funeral provider to show “people who inquire in person about the offerings or prices of caskets or alternative containers” a CPL “upon beginning discussion of, *but in any event before showing caskets.*”<sup>2</sup> As the Funeral Rule Compliance Guide has stated for years, this means that “[c]onsumers must be able to look at the price list before discussing their options or seeing the actual caskets.”<sup>3</sup> This requirement is based on evidence in the rulemaking record that less expensive caskets “often are not shown” when caskets are displayed, and is designed “to ensure that consumers have a bona fide opportunity to purchase low-cost caskets . . . if they so desire.”<sup>4</sup>

Even now, casket display rooms do not always include “all caskets and alternative containers offered which do not require special ordering.”<sup>5</sup> They may display only a limited selection. To ensure that consumers are aware that low-cost caskets that are not on display

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<sup>1</sup> Staff Opinion to T. Scott Gilligan (June 29, 2015) (emphasis added), *available at* [https://www.ftc.gov/system/files/documents/advisory\\_opinions/opinion-15-1/opinion\\_15-1.pdf](https://www.ftc.gov/system/files/documents/advisory_opinions/opinion-15-1/opinion_15-1.pdf).

<sup>2</sup> 16 C.F.R. § 453.2(b)(2)(i). The same requirements also apply to the Outer Burial Container Price List (“OBCPL”). 16 C.F.R. § 453.2(b)(3)(i).

<sup>3</sup> Complying with the Funeral Rule (April 2015) (“Compliance Guide”) at 13. The Compliance Guide makes the same statement about the OBCPL. Compliance Guide at 14.

<sup>4</sup> Statement of Basis and Purpose, 47 Fed. Reg. 42260, 42290 & n. 317 (Sept. 24, 1982).

<sup>5</sup> 16 C.F.R. § 453.2(b)(2)(i).

are available, the Rule insists that funeral providers show the CPL to consumers “in any event

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