

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 22-60779 CIV -SMITH

UNITED STATES OF AMERICA

Plaintiff,

v.

FUNERAL & CREMATION GROUP  
OF NORTH AMERICA, LLC, a Delaware  
limited liability company, et al,

Defendants.

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STIPULATED ORDER FOR  
PERMANENT INJUNCTION AND MONETARY JUDGMENTS

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (or "FTC"), filed its Complaint for Permanent Injunction, Civil Penalties, Monetary Relief, and Other Relief ("Complaint") in this matter, pursuant to Sections 5(m)(1)(A), 13(b), 16(a)(1), and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a)(1)57b, and the Commission's Trade Regulation Rule Concerning Funeral Industry Practices ("Funeral Rule"), 16 C.F.R. Part 453. Defendants have waived service of the summons and the Complaint.

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### FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45 and the Funeral Rule in connection with the advertising, marketing distribution, offering for sale, or sale of Funeral Goods and Services.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction. However, the facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission to enforce its rights under this Order, including its rights to any payment or monetary judgment pursuant to this Order.
4. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.
5. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
6. Defendants and Plaintiff waive all rights to appeal or otherwise challenge or contest the validity of this Order.

### DEFINITIONS

For the purpose of this Order, the following definitions apply:





G. **“Funeral Provider”** means any person, partnership or corporation that offers to sell Funeral Goods and Funeral Services to the public.

H. **“Funeral Rule”** means the Trade Regulation Rule Concerning Funeral Industry Practices issued by the FTC, 16 C.F.R. Part 453. A copy of the Funeral Rule is attached.

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**II. MANDATORY DISCLOSURE OF MATERIAL INFORMATION RELATING TO THE MARKETING AND SALE OF GOODS OR SERVICES**

It is further **ORDERED** that Defendants, Defendants agents, employees, and attorneys, and all other persons in active concert or participation with any of them, actual notice of this Order, whether they act directly or indirectly, in connection with marketing, promotion, offering for sale, or sale of any Funeral Goods or Services are permanently restrained and enjoined from:

A. Failing to disclose, Clearly and Conspicuously, on the Landing Page of any Defendant Websites:

1. The actual physical location of Defendants' business premises, including but not limited to their office, chapel, home, crematorium, or cemeteries;

2. That Defendants arrange for all or part of the goods and services requested by consumer to be provided by a Funeral Provider that is not directly or indirectly owned or controlled by Defendants, where such is true; and

3. A link to a General Price List.

B. Failing to disclose, Clearly and Conspicuously, during Defendants' first communication by telephone or electronic means with a consumer that he informally disclose under Section II.A .1-2 (directly above), and such disclosure must be made prior to any discussion about the cost of any Funeral Good or Service.

C. Failing to give a General Price List to any consumer communicating with Defendants by telephone or electronic means about any Funeral Good or Service, offer to sell or arrange,

Provided, however, that Defendants may provide the information by Clearly and Conspicuously directing the consumer to the General Price List on the Websites or sending an electronic copy of the General Price List to the consumer via email, text, or other electronic means available to that consumer.

D. Failing to disclose, Clearly and Conspicuously, by telephone or electronic means, upon request by the consumer for pricing information for Funeral Goods or Services, the total cost of such Funeral Goods or Services, provided that until selection by Defendant of a Funeral Provider to provide Funeral Goods or Services to a consumer, the Defendant may give an estimated price of Cash Advance Items if the exact price is not known, as long as the Defendant specifically identifies any additional Cash Advance Item that may



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(\$275,000) is entered in favor of Plaintiff against Defendant Damiano and Corporate Defendants, jointly and severally, as a civil penalty.

B. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

C. Defendants shall pay to Plaintiff, the total amount of Two Hundred Seventy-Five Thousand Dollars (\$275,000) (“Civil Penalty”), by make rthe



6. Written confirmation of the transfer shall be delivered via email to Wandaly Fernandez Garcia, Trial Attorney, Consumer Protection Branch, U.S. Department of Justice at wandaly.e.fernandez.garcia@usdoj.gov.

D. Defendants may prepay at any time, and without penalty, the remaining balance, or any part thereof, of the Two Hundred Seventy-Five Thousand Dollars (\$275,000.00) owed under this Order. Any such prepayment made prior to an installment due date shall be credited as if made on the next installment due date, and Defendants shall be relieved of making any further payments on the installment due date for any prepayments to the extent of such prepayment. Nothing herein shall be construed to relieve Defendants of their obligation to make timely payment for any installments as they become due, which have not otherwise fully been paid in advance.

E. Defendants agree that their payment of the Civil Penalty to the United States is not compensation for actual pecuniary loss and is not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 523(a)(7).

F. If the Defendants default on their installment payments of the Civil Penalty, the entire remaining amount of the Civil Penalty shall immediately become due.

G. Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.

**VIII. ORDER OF THE COURT**

A. Each Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 5 years after entry of this Order, the Defendant Damiano for any business that he, individually or collectively with any other Defendants, is the majority owner or controls directly or indirectly, and each Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

### **IX. COMPLIANCE REPORTING**

It is further **ORDERED** that Defendants mak-2 (ngel )TJ0 Tc 0.2 (e)4 0 Tcly

addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Defendant Damiano must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

2. Additionally, Defendant Damiano must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including those for all residence







C. The Commission and Plaintiff may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or