



Interment Association of California

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August 9, 1999

Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, NW
Washington, DC 20580



Re: 16 CFR Part 453

To the Members of the Commission:

On behalf of the members of the Interment Association of California, I would like to submit the following comments concerning the Trade Regulation Rule on Funeral Industry Practices (16 CFR Part 453). The 200 members of the Interment Association of California represent private (non-profit, for-profit, religious and fraternal) cemeteries in California.

The Interment Association of California **opposes** the expansion of the Rule's definition of "funeral provider" to include cemeteries. State regulation of the cemetery industry provides proven, extensive, appropriate industry oversight.

In California, the cemetery industry is regulated through the State Department of Consumer Affairs' Cemetery Program. The Cemetery Program has been in effect since 1996 when the program replaced the State Cemetery Board. The State Cemetery Board traditionally received approximately 200 queries and complaints annually, out of approximately 1,000 cemeteries in California (as determined from the *Cemeteries of the U.S.* published by Gale Research, Inc., 1994).

The transition from a state board oversight to regulation by a state agency was undertaken to provide a broader base, greater "objectivity," and greater consumer outreach. Consumer education is mandated to the extent that cemeteries must provide consumers with a state developed, 14-page guide to purchases. A toll-free, consumer hotline operates to accept consumer complaints and provide consumer information. The Department of Consumer Affairs also operates an internet web site to provide education and access to the complaint forms. Consumers can download complaint forms from this site.

This effort has been expensive. The cost of cemetery regulation has tripled. The State Cemetery Board had an annual budget of \$400,000.00. The current annual budget for the State Cemetery Program is \$1,200,000.00, which is passed onto consumers through retail pricing structures.

Even with expanded consumer outreach and tripled cost of regulation, are Californians well-served? In the three and one-half years (January 1, 1996 through July 28, 1999) since its inception, the Cemetery Program has only received, on an average, 268 complaints per year,

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compared with the 200, per year, received by the former State Cemetery Board. (See attached summary.)

California experiences 225,000 deaths annually. During the three and one-half years of the increased regulatory oversight, over 860,000 deaths occurred and permits for disposition were obtained, which calculates out to slightly over one complaint per one thousand deaths! And, this figure is dwarfed compared with the number of interments made during the past 100 years which may total ten million. Each of these interments/occupied grave sites are subject to the state's regulatory oversight.

Regarding the 841 complaints received and closed in the January 1, 1996 - June 30, 1999 period, most (547) were mediated. Over 50 were found to be unrelated to cemeteries. Only 1 monetary adjustment was required.

In conclusion, the cemetery industry strives for total consumer satisfaction. This may be an illusive goal, but it is one worth pursuing. State government regulation has proven expensive, but it does provide a sufficient, objective measurement of satisfaction. The inclusion of the cemetery industry in the coverage of the FTC Funeral Rule will only add additional expense, provide duplicative coverage at best, and at worst prove contradictory to established, sufficient state regulation.

I would like to thank you for the opportunity to provide input to the Commission's review. And, I would like to offer any additional information you may require. We would appreciate the opportunity to address any queries or concerns the commission may have. Please do not hesitate to contact our office.

Respectfully,


William P. Conway, Jr.
Executive Vice President



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Memorandum

DATE: July 30, 1999

FROM: G. V. Ayers

SUBJECT: Cemetery Complaints / Calls

Cemetery Complaints January 1, 1996 to July 28, 1999 – 939 total complaints received.

Disposition of Complaint	Number	
Closed – Monetary Adjustment	1	
Closed – No Violation	3	
Closed – Insufficient Evidence	2	
Closed – No Complainant Response	7	
Closed – Withdrawn	8	
Closed – Subject Deceased	12	
Closed – Mediated	547	
Closed – Subject Educated	12	
Closed – Out of Business	27	
Closed – Redundant	2	
Closed – Other	11	
Closed – No Jurisdiction	51	
Closed – Unactionable	25	
Citation Issued	40	<i>(only issued / may be returned, waived, with- drawn)</i>
Closed – Referred to AG	20	(Heritage & Rogers)
Consolidated case	2	(Rogers)
Closed – Complaint Registered	62	
Education Conference	5	
Compliance Received	3	
Office Conference Held	1	
Total	841 *	

* Does not include open investigations, current cases.

Consumer Information Center – Complaint Forms mailed for Cemetery Program

FY 96/97 (July–June)	696
FY 97/98 (July–June)	841
FY 98/99 (July–June)	662