



National Casket Retailers Assoc. FTC workshop -internet sales caskets.

10/09/02 First let me Thank you for having me here, a representative of the National Casket Retailer's Assoc. -- or known as the NCRA. I also want to make it clear, when I am speaking negative of any funeral directors today, it is not the whole group. Many fine upstanding people have chosen this field to work in, and do it well. Also, the National Funeral Director's Assoc. has in the past, and still today, been * very negative about third party retailers in this mix. I had emailed the NFDA about their Funeral Service Consumer Protection Forum, to be notified about the next meeting, and please add the NCRA -- no response, never any direct contact. I tried again posting publicly on the internet website at *. Funeral Service Professional. No acknowledgment, yet NFDA posts. As we meet the changing environment & the challenges, it is the NFDA & their like associations, that are perhaps, trying or permitted **to be the single voice** for advocacy & outreach to all of funeral service. This appears to be counted in as one of our biggest hurdles, even on the internet.

The Internet is simply another media for communications -- simply an additional conduit for information, sales and distribution - however it is a factor in the funeral industry marketplace. In a sense the usefulness of the internet really establishes the Web as a viable channel and focuses the Web as THE channel for the tremendous reach of the web and the tremendous possibilities.

While it is not illegal to have a monopoly position in a market, the antitrust laws make it unlawful to maintain or attempt to create a monopoly through tactics that either unreasonably exclude firms from the market or significantly impair their ability to compete. A single firm may commit a violation through its unilateral actions, or a violation may result if a group of firms is working together to monopolize a market. While it is not below cost pricing that drives this industry to monopolize this field, it is as we can show, groups of firms working together to monopolize these markets in casket retailing and grave liner sales. The dominate casket manufactures refuse to sell directly to casket store owners, such as Batesville, Aurora and *1York. It is said they have 80 and up percentage of the market when a casket is sold. The conglomerates such as SCI or Alterwood who also own cemeteries, which also sell funeral goods, have no problem obtaining funeral goods due to licensed funeral directors being on board. Some third party retailers can get the dominant casket brands -- however, only by the retailer being forced to go through a "broker" that raises our costs, making it a disadvantage. (This is a licensed funeral director that is sometimes found on the internet or locally, open to making more income by acting as a broker). This allows our rivals more freedom of trade than the casket stores, as the restrictions thrown in our path offer them an unfair advantage. This is even though the third party retail prices for these brands are at a far less cost to the public, time and time again. In fact, it allows the price of these funeral goods to be kept artificiality high.

Batesville, (a div. of Hillenbrand, had sales of \$2.1 billion last year with forecast representing growth of 14 percent to 15 percent for the current year. Retailers believe this firm is ONE of the largest abuser of this marketplace. Leading by example, other casket manufactures follow. http://story.news.yahoo.com/news?tmpl=story&u=ap/20020927/ap_on_bi_ge/deathly_business_1) has in place a **distribution policy**, *1a -that only licensed funeral directors in the state that the sale is in, will be permitted to be the one ordering the product from the local warehouse, servicing that funeral home.

Internet sales have slowed down considerably due to this now being enforced. *2
Lawsuits have opened from them to retailers doing business on the internet -- to stop the practice of making their product available to the public, by casket store retailers -- not having or owning a funeral home.

I myself, when we started five years ago, used to have more sales to the public in California, over my website for example, than in Ohio. Now however, sale tactics by some morticians, having the last look by using unfairly, the **bundled package** that I cannot compete against, and this restriction of Batesville's product, our store has not had a sale to a customer in California for over a year. However, Jackie Tubbs found us on the internet at burialitems.com, and wrote us a glowing letter, stating, "Because of the way the Louisiana rules are written concerning purchasing caskets out-of-state, the consumer is led to believe that it can't be done. The same holds true for those states not overturned -- still trying to restrict internet sales of caskets by strongholds in place - implying college is needed, to sell 120 FT. of wood, making up a casket.

- On the internet we have (as well local sales) met the roadblock of **a mortician unfairly using his or her state funeral director's license** to be the last one to offer the family a discount. A customer has come in, and had already made the casket purchase at a casket store a done deal. Retailers have lost sales due to morticians **"having the last look"** by offering the customer a "package or bundled deal" **that includes funeral service, against which the casket store owner cannot compete.** Sales should not be bundled with the services, it is not open trade then.
- The casket retailers do not object to being placed under the funeral rule, but we want fair trade opportunities. As retailers and business entrepreneurs we are under a lot of individual state rules already.

The selective discount to the casket, is given more to the shoppers who have already seen a casket store. Let them only have **one price sheet** and be required to offer that to the families, not two sheets, one for shoppers, and one for the rest. Let them not be able to use their state funeral director's license unfairly to compete against us, or **"bundle" the goods in with their services.**

Let's address grave liners or outer burial container internet sales. Dominate are Wilbert, <http://www.wilbertonline.com/> with 350 licensees, or more (with "jobbers"), Doric with 126 or more with jobbers, some carrying both brands, plus others like Eagle or Trigard.

I am located in Ohio, A Team Master's caskets, vaults and more. We sell on the internet often. I have to (unfortunately) tell my prospective customer, that not always, in all states, can we find a concrete supplier that will sell to us, a casket retailer. This is due to the market being **locked in by those in the field far before us.** On getting the details, I look up all concrete vault dealers in the area. Sometimes calling back saying we are unable to fulfill that order, due to restrictions in this industry, and losing that internet sale.

If one goes to a website called Funeral.com, rumored to be owned by Wilbert Vault, or a division of, doing a search on their site for concrete liners, only the Wilbert line comes up. However, no simple concrete grave liner, which by the way, is the standard government issue to all of the families buried at Veteran cemeteries. I am told that there are, "quote: in Ohio, 12 Wilbert dealers, and in Ohio and all the rest of the Continental United States, **there are no territories left** for sale, they are all sewed up." One dealer might cover a fifth of a state, and another may overlap the area a bit, but no dealer is permitted to install or deliver into another's territory, except by a transfer sale. **Any dealer can refuse a transfer**, and has, once they find out it is from a casket retailer instead of a mortician. Yet requesting a wholesale purchase of a concrete grave liner, that does not require a transfer as the main distributor does not manufacture them, however, again, **it is put up as a restriction** to be able to do business with that firm in that state. I recently sold a concrete grave liner to a woman in Houston Texas - I collected \$525.00 for it, she said I saved her \$400.00 -- for a basic concrete vault. When adding savings on a casket, we are talking a lot of cash, Big discounts, & frequent blockades in procuring both of these products.

The industry is smug in knowing boycotting and dealings go on and might be hard to prove -- but it happens often. Funeral directors, casket manufacturers and dealers for vaults, are often guilty of abusing so-called monopoly power to stifle competition. Because they are businesses, many have forged behind-the-scenes arrangements and agreements that prevent them from being purely unbiased and instead, practice all-encompassing abuse.

Again, from the website <http://www.funeral.com> - *3 an example of one of many internet sites. Holding up the FTC web site they copy examples from it -- in part...



- "It may be less expensive to buy an outer burial container from a third-party dealer than from a funeral home or cemetery. Compare prices from several sources before you select a model."

Sadly, much of the public has no idea what a third party dealer or seller is. If the National Casket Retailers Associations website, at <http://www.casketstores.com> information were added to the FTC references -- <http://www.ftc.gov/bcp/online/pubs/services/funeral.htm> along with those of NFDA and the others, whenever the FTC is quoted or read, the public could then find out about third party sellers and other important information to allow freedom of choice.

The Institute for Justice -- from their web site, The funeral business is big business. Each year, Americans arrange more than two million funerals for family and friends--for most of us, that means about once in every 14 years. The estimated 22,000-plus funeral establishments handle most of those two million funerals across America. **Nationwide, the funeral business is a \$25 billion per year industry. This consumer funeral product has dominant players, not because their product is any better than others, as evidenced by a class action lawsuit in Calif. against Batesville and SCI about deteriorating caskets to the tune of \$3.75 million dollars, <http://www.classactionamerica.com/cases/case.asp?cid=1823> or another class action lawsuit coming up in Missouri against a vault company, but due to many restrictions in this market, trying to keep price & profits high. <http://www.rill.com/financial.html>** According to American Demographics magazine, your funeral could be the third most expensive lifetime purchase--right after your home and automobile. (*American Demographics, July 1990*) *Source: Federated Funeral Directors. Percentages are approximate. Projection for 1999 based on average annual increase of the previous two decades.*



Below is summary & all documentation

- Some Americans may get out of this world without ever operating a computer, or flying in an airplane, or even making a telephone call. Yet the abuse was there in those industries enough to warrant action by the government. Not many ever die and have final services without the call to a funeral director, and those purchases associated with death. If indeed, 99.9% would call on a funeral director for services, and 70-85% OR MORE sales are to the dominant funeral goods' providers, in today's marketplace this is and has been a monopoly. I beg of you, on behalf of the American public to look into these matters. For the NCRA and other casket retailers we ask assistance in obtaining a more open market. To remove the stranglehold placed on us by these ever evolving monopolizing firms, or Associations refusing us a voice or responding to concerns, that excludes us or offer freedom of choice - even on the internet.

Submitted by Ms. Betty Brown, Vice Chair of the National Casket Retailers Association, (NCRA) web site <http://www.casketstores.com>, email casketstores@email.com CEO A Team Masters, 262 Shelton Blvd. Eastlake, Oh 44095 <http://www.burialitems.com> a-team@stratos.net 800-595-1313 or 440-942-8769, fax 440-951-6871

<http://www.proamopen.com/usvault.html> Burial Vault Companies on the Web:
<http://www.doric-vaults.com/> Doric Products Inc.
<http://www.eaglevaults.com/> Eagle Burial Vault Association Inc.
<http://www.vantageproducts.com/> Vantage Products Corp.
<http://www.wilbertvault.com/> Brown & Wilbert
<http://www.charlestontrigard.com/> Charleston-Trigard
<http://www.trigard.com> Trigard Burial Vaults
<http://www.wilbertonline.com/> Wilbert Vaults

*http://www.funeralserviceprofessional.com/Funeral_Service_News_19602.html#National_Casket_Retailer's (link,)
 NDFA In June of 1998, the National Funeral Directors Association (NFDA) published "Guidelines for handling third party caskets" and made them available to funeral directors. I believe it would more appropriately have been called "How to put casket stores out of business." In the pricing section of the guidelines, funeral directors are taught to offer consumers a discount on the condition they also purchase a casket from the funeral home. Caskets they may not want or can buy elsewhere at a lower price. <http://www.biomed.lib.umn.edu/hw/guide.html> ** copy of email to NFDA: : Funeral Service Consumer Protection Forum > Attn: NFDA President Robert Vandenberg 3/23/2002 I believe your not listing the other associates. that might be able to shed light on some of the problems, you may not be fully making use of all information or all avenues looked at for Protecting Consumers. Please add the National Casket Retailer's Assoc. to your next meeting or email, for funeral concerns-- as we could possibly send a representative from our consumer group.
 > Thank You, Betty Brown, Vice Chair, (NCRA) <http://www.casketstores.com>
 > National Casket Retailer's Assoc. > cc: file and emailed to: (please direct this to...) > International Cemetery and Funeral Association Chief Operating Officer Robert Fells, Cremation Association of North America President, Tom Snyder, > AARP Senior Legislative Representative of Federal Affairs Jeff Kramer, > and Federal Trade Commission Associate Director of Marketing Practices Division Bureau of Consumer Protection, Eileen Harrington.

*1 York (purchased by Matthews) <http://biz.yahoo.com/e/020812/matw.html>,

*1a Batesville policy http://www.funeralserviceprofessional.com/Funeral_Service_News_16402.html#Delivery_Policy

*2 Batesville vs Funeral Depot of Florida lawsuit over internet sales

*3 <http://trust100.com/main/main.html> , http://www.aarp.org/mmaturity/mar_apr00/ripoff.html ,
<http://www.funerals.org/> , <http://www.nfda.org/mediacenter/releases/2002/sept23.html>

Summery: Today, we just want to be heard, to present what is happening - and again, thank you for the time. . The NCRA is the oldest casket retailer's organization with members in many states. There is also CCRA in Calif. <http://www.casketretailers.com/index.shtml> for retailers to that state and <http://www.tafmr.org/> the TAFMR Texas Assoc. of Funeral Merchandise Retailers.

Like in a stock car race, this contest for the prize is won by those out front. While the retailers and morticians may not be traveling 130 miles per hour, we are competing for the big prize. The price the wicked teammates force upon the whole field, due to not having monitors, the retailing rivals and balance of the good rivals and the public is paying when we lose - is stiff. Nascar monitors the players on the track, wicked drivers are black flagged -- they fine and remove those that do not play fair or are illegal in the pits. *THEY ARE MADE TO ALL FOLLOW THE RULES!* Yet as retailers in this contest we are bumped off the track, spun into the wall and put out of commission at each turn by some morticians. AND In the pits we have most of the dominant product manufactures adding unfair restrictor plates, illegal spoilers making us crash and burn, and dangerously overinflated tires, all in the name of a contest we cannot win without assistance to make sure it is a level playing field. If the crowd knew what went on, they'd boo some of the players off the track and let the "rookies" have the edge. While we are not rookies anymore, many of the other team have called us the "wild card" and made up their own rules as they went along . The champion in NASCAR hasn't had to resort to cheating, spinning others out or bad practices in the pits to get ahead and can hold his head up proud. The funeral trade may have or has had enough bad press already without others crying foul, but we need to straighten this marketplace up, bring it out of the dark with what is going on, so the public can be the true winners here. We are all in the spotlight together, running towards a championship we can all be proud of, when we win. At the end of the day, we want to be able to say with our heads up, we were ALL given the chance and won or lost, because it was a fair contest.

- Casket Store Retailers can't say that yet although we have been part of the mix for over 1/2 of a decade already. Many have been **forced out** of business due to the industry imposed trade restrictions and monopolies getting stronger each year. Once we found a way to overcome this partly on the internet, again, blockades thrown up, and more stores threatened. Does this industry believe they have owned the market for so many years, whatever they do will be unquestioned? Trust me - the public is uneasy too. Make the whole industry part of the answer, not the problem of trusting the death care group. We all want to hang with a reputable crowd. Today it needs much - - we look to you . NCRA submitted

From: The Director 70 (5): 64-66. 1998 May

<http://www.biomed.lib.umn.edu/hw/guide.html>

Guidelines For Handling Third-Party Caskets
By T. Scott Gilligan

In the past few months, a number of issues surrounding the handling of third-party caskets by funeral homes have arisen. Because the Federal Trade Commission (FTC) Funeral Rule does not specifically address many of these issues, funeral directors may be uncertain of their precise obligations in handling third-party merchandise. Adding to the confusion is the flurry of unfounded claims being made by third-party casket sellers and their new organization, the National Casket Retailers Association.

To assist NFDA members in knowing their rights and obligations regarding third-party caskets, NFDA has prepared guidelines to help members deal with families using third-party caskets and with suppliers of third-party caskets. In addition, we have provided a guideline on permissible pricing methods involving third-party caskets.

Dealing with Families Using Third-Party Caskets

Providing Services. A funeral home should never refuse to service a family because they indicate they will be using a third-party casket. The funeral home may not discriminate in any manner against the family in the level or type of service provided. Do not attempt to dissuade a family from utilizing a third-party casket by disparaging the quality of the casket. Of course, a funeral home may try to persuade a family to purchase a casket from the funeral home by comparing prices and the quality of products offered.

Delivery of Casket. A funeral home may not require the family to be present when the third-party casket is delivered to the funeral home. The funeral home may, however, request the family to sign a form authorizing the funeral home to accept the casket on the consumer's behalf. We recommend using the NFDA form titled "Use of Third-Party Merchandise." This form authorizes the funeral home to accept the third-party casket and relieves the funeral home from any obligation to inspect the casket.

Defective or Damaged Casket. If the third-party casket is defective or damaged in any respect when delivered, the funeral home should point out the defect or damage to the third-party supplier (see next section). In addition, the funeral director should immediately alert the family to the defect or damage noticed. When discussing the condition of the casket with the family, do not disparage the quality of the casket. Rather, the funeral director should objectively point out the defects or the damage.

Inspection of the Casket. Prior to the visitation or a funeral service where the body will be present within the casket, the funeral home should have the family inspect the casket in order to verify that it is the casket they purchased from the third-party supplier. If the casket has any defects or damage that the funeral home has not previously pointed out to the family, do so at this time. Again, do not disparage the quality of the casket or the third-party supplier. Rather, in a very objective manner, the funeral director should indicate any defects or damage to the casket.

Indemnification Forms. When a family indicates it will utilize third-party casket, NFDA advises funeral directors to request the family sign NFDA's form titled "Use of Third-Party Merchandise" or a similar indemnification form. While the funeral home may request the family to sign the form, it may not require that the family sign the form as a condition of accepting the casket. In other words, never inform or suggest to the family that they are required to sign the indemnification form. If the family refuses to sign the form, the funeral home must still service the third-party casket without discriminating against the family in any manner. Upon the refusal of a family to sign the indemnification form, the funeral director should provide them with a copy of the unsigned form and should note on another copy of the form the date and time that it was provided to the family and the fact that the family declined to sign the form.

Rejection of Casket. If, in the objective opinion of the funeral director, the third-party casket is not structurally sound to hold and transport the body, or if it presents a safety risk to pallbearers or funeral home personnel, the casket may be rejected. However, because the decision by the funeral home to reject a third-party casket will undoubtedly draw scrutiny from the FTC and state officials, funeral directors are strongly advised to be cautious in rejecting any third-party casket. Prior to declining to use the casket, the funeral director should consult with the family and point out why the casket is defective and the risk it poses.

Dealing with Third-Party Casket Suppliers

Delivery of Caskets. When arranging to take delivery of a third-party casket, the funeral home may not impose on the third-party supplier any special restrictions on the time or manner of delivery. As a rule of thumb, NFDA advises that the funeral home should treat the third-party supplier as it treats its wholesale supplier of caskets. If the funeral home assists its wholesale casket supplier in unloading caskets, it should extend the same courtesy to third-party suppliers. However, no special concessions need be extended to third-party suppliers. For example, if the funeral home accepts delivery of caskets from its wholesale suppliers only during normal business hours, it can impose the same restriction on third-party suppliers.

Receipt of Third-Party Caskets. When the funeral home receives the third-party casket, NFDA recommends it provide the supplier with the NFDA form titled "Receipt of Third-Party Merchandise." On this form, the funeral home acknowledges receipt of the third-party casket and explains to the supplier that receipt of the casket does not constitute legal acceptance of the casket. Only the family may accept the casket in the legal sense since the contract of purchase is directly between the supplier and the family. The "Receipt of Third-Party Merchandise" form also provides the funeral director with the opportunity to record any visible defects in the casket at delivery. While the funeral home cannot require the third-party supplier to sign the form, it should provide the supplier with the form that has been signed by the funeral home. A copy of the form should be maintained in the funeral home files.

Inspection of the Third-Party Casket. As stated in the "Use of Third-Party Merchandise" form presented to the family and the "Receipt of Third-Party Merchandise" form presented to the supplier, the funeral director is under no duty to inspect the third-party casket when it is delivered. Nevertheless, to protect the funeral home from claims that it damaged the casket after delivery to the funeral home, it is recommended that the funeral home make an inspection of the casket upon delivery and note any visible defects. The "Receipt of Third-Party Merchandise" form may be used for this purpose.

Pricing Practices

No Handling Fees. The funeral home may not charge any type of fee for handling a third-party casket. There should not be an inspection fee, delivery fee, casket set-up fee or any type of charge imposed against the family who elects to bring a casket to the funeral home.

Discount Packages. In order to encourage families to purchase the casket from the funeral home, a funeral home may offer discount packages to consumers who purchase a casket from the funeral home. Some third-party casket sellers have claimed that restricting discount package offerings to families who purchase a casket from the funeral home constitutes an unlawful sham discount. However, the United States Court of Appeals passed on this very issue when it distinguished a direct casket handling fee from a discount package that was only available to families who purchase a casket from the funeral home. In that regard, the Court found the latter pricing scheme to be legal.

The Court ruled as follows:

"...the FTC distinguishes direct casket handling fees from offering discounts to people who buy caskets from the funeral home. The former is an anti-competitive penalty (the fee) and the latter is a method used to deal with competition from the third-party casket sellers which is pro-competitive. The fee essentially requires consumers to buy their caskets from funeral homes, or pay for it anyway. The other methods (e.g., discounts) represents a way to encourage consumers to buy their caskets from funeral homes."

It is clear from the ruling of the court that limiting discounted packages to consumers who purchase caskets from the funeral home is a legitimate competitive method against third-party casket sellers.

Prohibition Against Discounting the Non-Declinable Service Fee. While funeral directors are free to offer discount packages to families who purchase a casket from the funeral home, they should not offer to discount only the non-declinable basic service fee for those families who buy a casket from the funeral home. This is one discount that the FTC would challenge as an unlawful reverse handling fee. Therefore, the non-declinable basic service fee should be the same for consumers who buy caskets from the funeral home, as well as consumers who use a third-party casket.

Unreasonable Discounts. While funeral homes are free to offer discounted packages to encourage families to select a casket from the funeral home, they may not make the discounts unreasonable. For example, if a funeral home raised its itemized prices for a typical funeral to \$10,000 and then offered a \$3,000 funeral package to consumers purchasing a casket from the funeral home, it would open itself up to a claim that it is employing sham discounts. The amount of the discount should have some reasonable relationship to the net income the funeral home expects to earn on the sale of the casket.

If NFDA members have any questions regarding their rights and obligations in handling third-party merchandise, please feel free to contact NFDA General Counsel, T. Scott Gilligan at 513-241-5540.

T. Scott Gilligan is a partner with the law firm of Kepley, Gilligan, & Eyrich in Cincinnati, Ohio. He serves as NFDA General Counsel and represents NFDA in matters dealing with the FTC Funeral Rule.

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Funeral Service News 19602

http://www.funeralserviceprofessional.com/Funeral_Service_News_16402.html

Batesville Sales and Delivery Policy reminder

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In a message dated 6/11/02 4:19:28 PM, Joe.Weigel@batesville.com writes: John, thank you for the opportunity to provide additional information on our sales and delivery policy. As you requested, it is attached.

Memorandum

To: Batesville Casket Customers
 From: Mike DiBease Vice President of Sales
 CC: Batesville Sales Professionals
 Batesville Service Organization
 Funeral Directors Assistance Center
 Subject: Batesville Sales and Delivery Policy reminder
 Date: June 1, 2002

The increasing growth of third party casket sales, especially on the Internet, continues to be a challenge that faces all of us in funeral service. In order to ensure there is no confusion regarding our long-standing policy on the sale and delivery of our caskets, it is beneficial to periodically communicate this policy:

It is and has been the policy of Batesville Casket Company to sell our caskets only to licensed funeral professionals operating licensed funeral firms. Additionally, Batesville will deliver caskets only to licensed funeral professionals operating licensed funeral firms that order the caskets. Occasionally, a customer requests that we deliver a casket to another funeral home that is not a branch of their firm. In these situations, we will deliver the casket only when the casket is ordered by the receiving funeral home. The purpose of this provision is to ensure we do not inadvertently accept an order from a third party seller for subsequent delivery to a funeral home, thereby becoming their delivery service.

When a CSC location or FDAC receives a call that requests delivery of a casket to a funeral home that is not the firm placing the call (or a branch of it), the Batesville representative will inform the calling funeral home that they cannot accept the order. When necessary, the Batesville representative will remind the customer that it is their NCRA submitted by Betty Brown, Vice Chair, for FTC

(the calling funeral home's) responsibility to contact the receiving funeral home to request the receiving funeral home place the order for the casket. The funeral home which is to receive the casket will then call Batesville, place the order and instruct Batesville to bill the original, calling funeral home.

Batesville is under no obligation to contact the receiving funeral home to request that the receiving funeral home order the casket. In fact, Batesville will not recognize an order in our system until all requirements of our sales and delivery policy are met. It is the ultimate decision of the receiving funeral home whether or not they will order a casket that is being billed to someone else.

This procedure is the way we have chosen to operate and reflects the relationship between Batesville and our valued funeral home customers. We will continue to adhere to this policy that supports the backbone of our business philosophy and has served us well over the years. All sales representatives, CSC personnel and the FDAC operators are expected to comply with this policy.

MORE

John, we stand behind this policy of selling and delivering products only to licensed funeral directors who operate licensed funeral homes. Batesville explores every possible means of ensuring that our products are available through (and our promotional materials are used by) licensed funeral homes.

As you know, direct-to-consumer Internet web sites typically obtain our caskets through funeral professionals who break with tradition and resell them to these web sites.

Additionally, the owners of these sites obtain our product information and lithographs without authorization and post them on their web sites. Once we are apprised of these improprieties, our legal department is informed and they use appropriate means to bring about compliance.

Batesville continues to believe that families are best served when caskets are selected from a funeral director, whether that is in a preneed or at-need situation. While the funeral home is required by the FTC Funeral Rule to accept the casket from a source outside the funeral home, it is our understanding that the funeral home is not required to place a call to the casket manufacturer to order that casket for delivery to the firm. And, as our policy states, we will not deliver the caskets until we receive the call from the receiving funeral ordering the casket.

As always, customers are encouraged to contact their Batesville representatives with questions.

End Above Article

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Betty from the National Casket Retailer's Association Writes

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Funeral Service News 19602 http://www.funeralserviceprofessional.com/Funeral_Service_News_19602.html

In a message dated 6/24/02 11:29:48 PM, Betty in Ohio writes:

<< ---copy-----ICFA's numbers:

I am writing to "note" that the ICFA's report seems self serving, offering an editorial claim of significant convention attendance by independent FDs without showing the number. With ICFA's new president, one might wonder about things like independent representation.

Corporations operators have abundant resources. Independents should consider what focus their association take towards problems or lose the contest. NFDA may be a bit stogy and has it's own issues, but splitting up national funeral industry representation is simply counterproductive in many ways.

Joining ICFA could be considered an endorsement of the new marketing plans of our larger competitors before those plans have been through the acid test for fairness. It's time for independents to get involved in NFDA.

END copy -----

I don't think you are comparing apples to apples. The NFDA restricts membership - they do not include all the death care industry. They are also not -in my opinion- as open and factual in areas where they need to be concerning fairness. (And I can see the ICFA tries to be fair all the way around). Ask any casket store retailer or look up on the web, and see the slanted news the NFDA offer their members on "HOW to handle third party caskets." Their form they suggest their members use to "sign off" on acceptance of product is flawed as well. It does not say "if any" when mentioning any imperfections of the arriving goods, it just has a line item for description of flaws.

And from what I see of the issues the NFDA fight for wages and the "good ole boy network" consisting of the owners and THEIR issues, not the employees, their reputation is getting very tarnished from within too. Their web site and their meetings ignore the casket store industry as part of the death care industry (except when it is to their talks to the FTC to include them in the funeral rule, btw, no objection there)- I wrote (emailed) the Pres. of the NFDA about the: Funeral Service Consumer Protection Forum and asked for the National Casket Retailer's Association to be informed and invited to the next meeting. And I copied it to all that were there at the first. Funny - I got responses from those other emails, but not from the NFDA. And they know of the NCRA, yetwell if the public is truly on their mind, they would invite someone from our Assoc. to attend. Perhaps the NFDA would like to respond here to confirm or explain this away?

The ICFA is very forward thinking - battling for the little guys - puts up a very informative site AND isn't afraid of competition nor tries to teach their members to be using sales tactics to TRY to stifle lost sales to competitors as well.

While I am not a member, as an interested onlooker (for now) I see a group who is more American in their attitude of fair play and respect - both for the business owner, members, and the public. Offering freedom to choose, not trying to make up someone's mind for them - but offering UNSLANTED education all the way around, so the owners and public can choose themselves.

Also, changing the subject, the Funeral Service Professional Association is another plus we as death care industries have going for us.

The site (sorry, hint) text is a big large for me to read comfortably, and I thought I'd pass on a hint. Maybe it is because I use Netscape?? However, if anyone else feels this way, all they need to do, once the page has fully loaded, is press the control button and the { button at the same time and it will shrink the text, do it again, smaller still, and again. To enlarge, use the control button and the } together.

The { is the cap of the key next to the p. I have never tried to print the pages on the Funeral Service Professional Association site, but the large print would take many pages I am sure.

And offering your laugh of the day, Check this link...read it with your best Japanese accent...
<http://www.origamiboulder.com>

Regards, Betty B.

Vice Chair of the NCRA

+++++

Hi Betty, did you know that if it were not for the arrogance of a Funeral Director in Vermont, there would be no Funeral Consumers Alliance, my friend Lisa Carlson was mistreated by a Vermont Funeral Director his arrogance forced Lisa Carlson to do something about it. If it were not for the Arrogance of Massachusetts Funeral Directors Association and their Kissin Cousin New England Funeral Trust there would be no Funeral Service Professionals Association, even today MFDA/NEFT do not return my communications.

NFDA on the other hand usually steps to the plate, I am surprised you never heard from NFDA, maybe vacation season, once in a while I write NFDA and the message falls through the cracks, I do agree that NFDA does represent Owners and not employees, the election process that NFDA has is very flawed, officers are voted into office by non members, only State Associations (none are paid members) can vote for officers, so there is credibility to your good old boy angle. ICFA does elect officers by members voting, I was delighted to see ICFA's election process at their convention, ICFA can only move in a direction that members elect, ICFA is much quicker to make course changes, although ICFA boasts they are the only international trade association representing all segments of the cemetery, funeral and memorialization industry, ICFA members consist of mostly management level people. Speaking to FSPA, membership is open to all Funeral Service Professionals, the articles are read by the movers and shakers in our industry. We both know all associations can only do what participating members demand.

Membership Participation is the underlying a plague in most associations, members are participating less and less, NFDA boasts being is the oldest and largest funeral service association, serving about 13,500 members, thousands do go to NFDA's Convention but I think ICFA Convention percentage of membership attendance is higher than NFDA's percentage of membership attendance.

NFDA has published every article I have ever submitted speaking on fair wages to employees, even though NFDA long standing objectives is to not offer fair wage and hour protection to Funeral Service Professionals. NFDA in the recent past has encouraged me to continue to communicate on issues I disagree with.

As flawed as each association may be, NFDA and ICFA have both bent over backwards communicate with me.

BOTTOM LINE: Competition is good in any area, thanks to the Casket Retailers, casket prices to consumers through Retailers and Funeral Homes have stabilized. There is no room for the Arrogance of non communicating, I bet you hear from NFDA. Please keep us posted.

Happy Summer to you!

John McDonough

End Above Article

FROM: John L. McDonough founder of F S P A
 THE FUNERAL SERVICE PROFESSIONAL ASSOCIATION
 Funeral Industries: Standards, Principles and Practices.
 c/o McDonough Funeral Home
 "the runway to heaven" ©
 14 Highland Street in Lovely
 Lowell Massachusetts 01852-3399
 The United States of America
 Ocean Sunset
 EARTH = United Federation Of Cyberpals
 VOICE 978-458-6816 FAX 978-459-0115
 " Determination should be a chapter in everyone's book "

This should have gone up under the NFDA copy, it is a funeral director assoc. I found on the internet, writing in and response (NO ACTION taken to remove offending and untrue -- again, some of the assoc. are teaching their members much untrue negative ways to "DEAL" !!

> From: Betty Brown <a-team@stratos.net> (by way of Kelly Guncheon)

> Date: Mon, 19 Aug 2002 08:06:36 -0500

> To: kguncheon@mnfuneral.org

> Subject: your funeral quiz...

>

> I found by way of the s/e and was amazed to see how unfairly slanted it is (and not sure it all applies or is correct as detailed at all) I then looked at the rest of your site, and came upon the "to safeguard the public against unethical practices," so I thought I would write you.

> I am Betty Brown, Vice Chair of the NCRA (National Casket Retailer's

> Assoc. <http://www.casketstores.com>) and see where your quiz (in regards to casket sales from others) mentions dents, ready to fall apart, etc. etc and therefore would fail to come under your mission statement, as indeed those questions, all slanted towards very negative and untrue (have any documentation that any of that ever happened, (??) let alone as the norm, as the questions make it seem) are very unethical as wrote.

> Please respond your intentions on corrections to this, asap.

> Regards, Betty B.

> ref http://www.mnfuneral.org/join_mfda_quiz.shtml

Below is copied an email from him, and my response back to him is started out with ----- no reply

From: Kelly Guncheon

Date: Monday, August 19, 2002 07:40:37

To: Betty Brown (by way of Kelly Guncheon)

Subject: Re: your funeral quiz...

Dear Betty,

Thank you for your comments, but I think you're off track. The section of our web site that you cite

-----indeed then, put code on the page so that the general public does not find it in search engines as I did.

>is a quiz that was designed to help funeral directors

-----No where does it say it is for funeral directors, it simply asks "How well do you know...."

>comply with the FTC Funeral Rule requirements. The comments you cite are taken from hypothetical

>examples

-----Then it should state that as such shouldn't it?? It is just teaching f.d.negative input about dealing with c.s. and looks like it "assumes" all deliveries will be problems. How sad. Do you think the railroads taught their members such junk when the trucking industry started taking customers of theirs?? (Or posted junk for all the public to see to that tune as well.)

>They neither are not outside the realm of possibility nor are they suggesting that such occurrences are >commonplace.

---Would beg to differ with you on that. If not corrected in any of the ways mentioned in this email - I will see if indeed the NCRA would like to seek legal counsel to correct this nearly slanderous slant on your quiz. Or if you mentioned good things coming out of doing biz with c.s. to even it out - something different than it now stands.

>To take them out of context, suggest that we are somehow misrepresenting anything, and then implying

>that they run counter to our mission statement is to either misunderstand or misrepresent their purpose and

>meaning. I'll assume the former.

---If you stand back and look at it from another's view, coupled with the details above from me, I think you would see the wrong in it, and how it does go against your mission statement - and (NOT) giving the public good information.

Regards, Betty Brown, Vice Chair, NCRA

Kelly F. Guncheon, CAE

Executive Director

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http://www.mnfuneral.org/join_mfda_quiz.shtml Contents below - copied in full

How well do you know the Funeral Rule?

Take this pop quiz to test your knowledge about what is, and isn't, permitted

As reported in the July 2000 Issue of the Bulletin MFDA learned that the FTC was supposed to make surprise undercover inspections in Minnesota to ensure that funeral directors were complying with the Funeral Rule. Regardless of whether the sting operations occur, all licensed funeral directors are required to comply with the Rule at all times. This pop quiz may refresh your knowledge by providing real-life scenarios in which the Rule must be applied. Scott Gilligan, the National Funeral Directors Association's General Counsel, developed this information.

Questions:

1. Because of a rash of crank calls, a funeral home adopts a policy that will not discuss price or provide product information over the telephone unless the telephone caller identifies himself. Is this policy permitted under the Funeral Rule? Click here for the answer. NO. Under the Funeral Rule, a funeral home may ask a telephone caller to identify themselves, but cannot insist that they do so.

2. A funeral home uses a non-licensed caretaker after 6:00 p.m. to answer the phone. Is the caretaker required to provide price information over the telephone to callers who ask for it? Click here for the answer. NO. Non-licensed personnel may take messages so that licensed funeral directors can return calls during normal business hours.

3. A consumer calls and asks a funeral home to mail its General Price list to him. Does the Funeral Rule require the funeral

NO. Funeral homes are only required to distribute the General Price List in response to face-to-face discussions.

4. During a removal, a funeral director requests permission to embalm the body and informs the family that embalming is not required by law. Does the request for permission to embalm trigger the requirement to give the family a General Price List? Click here for the answer. NO. The Funeral Rule permits funeral home personnel to request permission to embalm a body without having to distribute a General Price List (GPL) as long as the family member is verbally informed that embalming is not required by law.

5. During a removal, a family asks the funeral director whether her funeral home offers cremation. Does this inquiry trigger the requirement to distribute a General Price List? Click here for the answer. YES. Other than the request for permission to embalm, any other discussion involving funeral goods, funeral services, funeral prices or the overall type of funeral arrangement requires the funeral home personnel to distribute a copy of the GPL.

6. A funeral director making at-need arrangements first asks the family about information for the obituary. Does the failure to distribute the General Price List at the beginning of the arrangement conference violate the Funeral Rule? Click here for the answer. NO. Funeral directors may extend condolences and discuss obituary information without having to distribute the GPL. However, as soon as the discussion turns to funeral goods, funeral services, funeral prices, or the overall type of funeral arrangements, a General Price List must be distributed.

7. A funeral home places its General Price List on a table in the arrangement office. Has the funeral home complied with the General Price List distribution requirements of the Rule since the GPL is readily available to the family? Click here for the answer. NO. The Funeral Rule requires the funeral director to physically hand the GPL to a family member.

8. Four family members attend the funeral arrangement conference, but the funeral director only Click here for the answer. NO. When meeting with more than one family member, the Funeral Rule only requires that one copy of the GPL be distributed.

9. At the arrangement conference, the funeral home distributes to family members its General Price List enclosed in a transparent plastic cover. Does this violate the Funeral Rule? Click here for the answer. YES. The GPL should be a freestanding form that the family can take with them. By distributing the List in a transparent plastic cover, the funeral home is implicitly informing the family that the GPL is not being given for retention.

10. A funeral home places its Casket Price List and its Outer Burial Container Price List in a binder that is presented to each family member before they see the caskets. Is this permissible under the Funeral Rule? Click here for the answer. YES. Since the Casket Price List and Outer Burial Container Price List do not have to be given for retention, funeral homes may place them in a binder.

11. A funeral home prefers to use price cards in each casket in lieu of a printed casket price list. May the funeral home do so under the Rule? Click here for the answer. NO. Families must be presented with the Casket Price List before they see the caskets. Therefore, price cards placed in the caskets are not sufficient under the Funeral Rule.

12. Your competitor comes to the funeral home and demands a copy of your General Price List. You know he just wants to compare your prices for the purpose of undercutting them. Can you refuse to provide him with the GPL? Click here for the answer. NO. A GPL must be given to anyone upon a face-to face discussion regarding funeral goods, funeral services, funeral prices, or the overall type of funeral arrangements.

13. A funeral director addresses a senior citizens group regarding funeral practices. A member of the audience asks questions about funeral goods and services. Does the funeral director have to distribute a General Price List as part of her presentation? Click here for the answer. NO. The FTC does not require funeral directors to hand out GPLs when addressing community groups.

14. A shopper visits the funeral home for price information, but does not wish to see a funeral director. May the funeral home require the consumer to see a funeral director in order to receive a General Price List? Click here for the answer. NO. Funeral home personnel should be trained to present a GPL to anyone who asks for it. Although the funeral home may request the consumer to see a funeral director, it cannot require the consumer to see a funeral director in order to receive a GPL.

15. To protect itself, a funeral home requires shoppers to sign a disclosure form acknowledging that they received a General Price List. Is this procedure permissible under the Funeral Rule? Click here for the answer. NO. A funeral home may request shoppers to sign a disclosure form, but cannot require that they sign it in order to receive a GPL.

16. A shopper receives a General Price List from the funeral home's receptionist who is not a licensed funeral director. If the consumer has questions and a funeral director is not available to meet with the consumer, does the Funeral Rule require the receptionist to provide the requested information? Click here for the answer. NO. Non-licensed personnel are not required to discuss price information (although they are required to give out a GPL). The funeral home may ask the consumer to see a licensed funeral director in order to discuss items on the GPL.

17. An individual has previously purchased a preneed contract. When the individual dies, her family meets with the funeral director to confirm the arrangements. The family does not wish to change any goods and services purchased under the contract. Must the funeral director provide the family with a General Price List during these arrangements? Click here for the answer. NO. If no modifications are made to a preneed contract, it is not necessary to distribute a GPL during the arrangement conference.

18. A preneed sales counselor meets with a family at their home. As part of her sales presentation, she first explains the various goods and services offered by the funeral home. If the family is interested in making arrangements, she then presents them with a General Price List and makes arrangements. Is this practice permissible under the Funeral Rule? Click here for the answer. NO. The preneed sales counselor should have distributed the GPL as soon as there was any discussion about funeral goods or services. NCRA submitted by Betty Brown, Vice Chair, for FTC workshop on restrictions on the internet, funeral goods.

19. At the end of a funeral arrangement conference, the funeral director provides the family with a copy of the Statement of Funeral Goods and Services selected. However, he fails to have the family sign the statement. Has he violated the Funeral Rule? Click-here for the answer. NO. The Funeral rule requires only that the family be given a copy of the Statement. The Funeral Rule does not require the Statement to be signed.

20. An individual from out of state telephones a funeral home to make arrangements for the body of his mother to be shipped to him. The family member never meets the funeral director at a face-to-face meeting. Must the funeral director send the family member a Statement of Funeral Goods and Services Selected through the mail? Click here for the answer. YES. Even though the purchase was made over the telephone, a copy of the Statement of Funeral Goods and Services selected should be sent to the consumer by mail.

21. A consumer informs the funeral director that the family will be using a third-party casket from ABC Casket. ABC Casket delivered the wrong casket to the funeral home the previous week. Because of this prior incident, the funeral director insists that a family member be present when ABC Casket delivers the casket. Has the funeral director violated the Funeral Rule? Click here for the answer. YES. Funeral directors may not require consumers to be present for third-party casket delivery.

22. A third-party casket company delivers a casket and the funeral director notes on the Receipt of Third Party Merchandise form that one of the sides is dented. If the delivery man refuses to sign the receipt, may the funeral director refuse to accept delivery? Click here for the answer. NO. Funeral directors should not refuse to accept a third-party casket even if the third-party supplier refuses to sign a receipt.

23. A funeral home charges casket setup fee that covers the cost of taking delivery of a casket, unpacking and inspecting it and placing it in the funeral home. This charge is incorporated into the price of each casket sold by the funeral home, but is charged separately for third-party caskets brought into the funeral home. Is this a permissible charge under the Funeral Rule? Click here for the answer. NO. The funeral home should not assess any type of handling charge for a third-party casket.

24. A consumer making preneed arrangements for his own funeral indicates to the funeral director that he has previously purchased a third-party casket. Does the Funeral Rule prohibit the funeral director from attempting to sell a casket to the consumer under these circumstances? Click here for the answer. NO. The funeral director is free under the Funeral Rule to compare products and services with the consumer in an attempt to persuade the consumer to purchase a casket from the funeral home.

25. A funeral home has discount package funerals, but restricts the offering of the package only to consumers who purchase a casket from the funeral home. Is this permissible under the Funeral Rule? Click here for the answer. YES. The Funeral Rule permits funeral directors to restrict discount packages only to consumers who purchase a casket from the funeral home.

26. A funeral home with a \$1,000 non-declinable service fee reduces the fee to \$800 if a consumer purchases a casket from the funeral home. Is this pricing scheme permissible under the Funeral Rule? Click here for the answer NO. Although funeral homes may encourage consumers to buy caskets from the funeral home by the use of discount packages, the funeral home should not discount ONLY its non-declinable service fee in order to entice consumers to buy a casket from the funeral home. If a funeral home is going to use discounts to encourage consumers to purchase a casket from the funeral home, it should assemble a package (which may or may not include the casket)..

27. A funeral home doubles the price of all of its itemized goods and services so that a traditional funeral would cost approximately \$8,000. It then assembles a traditional funeral package that it offers for only \$4,000. However, the package is only available to consumers who purchase a casket from the funeral home. Is this permissible? Click here for the answer.

NO. This would be an example of a sham discount. The discount offered by the funeral home should have a reasonable relationship to the profit the funeral home expects to make from the sale of the casket.

28. A funeral home offers a discount package. A consumer purchasing the package does not want one of the services included in the package. Must the funeral director provide the consumer with a reduction in the package price for the unwanted item? Click here for the answer. NO. Packages may be offered on a "take it or leave it" basis.

29. A consumer is using your competitor for the funeral, but wants to buy one of your caskets because they are cheaper. May you refuse to sell the casket to the consumer? Click here for the answer. NCRA submitted by Betty Brown, Vice Chair, for FTC YES. A funeral home may refuse to sell caskets to a consumer who does not wish to use the funeral home for other services.

30. A third-party supplier has delivered a casket to your funeral home that is about to fall apart. May you refuse to use the third-party casket if you believe it will not safely hold the body? Click here for the answer. YES. If in the funeral director's objective opinion, the third-party casket is so structurally deficient that it will not safely hold a body, she may refuse to use the casket.

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