



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Division of Marketing Practices

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T. Scott Gilligan, Esq.
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Dear Mr. Gilligan:

You have asked for a clarification of Staff Opinion 09-1,¹ because you are concerned that portions of that opinion might be taken out of context and misinterpreted. You express particular misgivings about statements you believe could be read to imply that “the basic services fee must be the same for **each** of the clients of a funeral provider,” and thus might suggest that the Funeral Rule prohibits funeral providers from providing free or nominal cost funerals for indigents and in other special cases.

The point we made in Opinion 09-1 was that funeral providers must charge the same basic service fee listed on their General Price List (“GPL”) to clients who buy a discount package of funeral goods and services and those who do not. Only the goods and services provided in a discount package may be discounted, not the basic services fee, for the reasons explained in the Opinion.

In fact, the statement from the Opinion that you cite as causing the greatest concern was carefully footnoted with an acknowledgment that funeral providers may charge lower prices for special groups, such as indigents, infants, and memorial society members.² The one prerequisite for charging lower prices for such special groups, as the Opinion noted, is the requirement that a funeral provider provide qualifying clients with an alternative price list. As the Compliance Guide emphasizes:

Remember: Even if you use alternative price lists, you still must comply with all Rule provisions, including mandatory disclosures and itemized prices.³

¹ Staff Opinion 09-1 (Feb. 17, 2009).

² *Id.* at p.3, n.10, and accompanying text.

³ Complying with the Funeral Rule (June 2004), p. 13. *See* 47 Fed. Reg. 42260, 42299 (Sept. 24, 1982) (“Finally, nothing in the rule will prevent funeral directors from meeting any perceived social responsibility to make services available at nominal charges for welfare cases or from charging special lower prices for infant deaths or other special cases.”)

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Page 2 of 2

You also seek clarification that Opinion 09-1 is not meant to imply that a funeral provider is required to include the full basic services fee listed in its GPL in its fees for forwarding and receipt of remains, direct cremation, and immediate burial. You are correct that because the Opinion does not address that question, no such inference can be drawn from it. That issue has been raised in a separate request, and will be addressed in a forthcoming staff opinion.

The views expressed in this letter are those of the FTC staff. They have not been reviewed, approved, or adopted by the Commission, and they are not binding on the Commission or any individual Commissioner. However, they do reflect the views of FTC staff charged with enforcement of the Funeral Rule. Staff Funeral Rule opinions are routinely posted on the FTC website at <http://www.ftc.gov/bcp/online/edcams/funerals/staffopinions.shtm>.

Sincerely,

/s/

Craig Tregillus
Funeral Rule Coordinator