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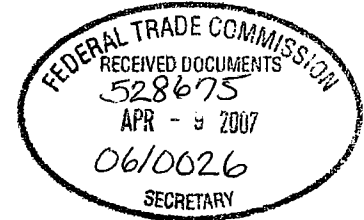
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April 6, 2007

Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, N.W.
Washington D.C. 20580



Re: In The Matter of Missouri Board of Embalmers and Funeral Directors, File No. 061-0026

Dear Sirs:

The above referenced matter was initiated against the Missouri State Board of Embalmers and Funeral Directors (the "State Board") in its capacity as the licensing authority for embalming and funeral directing activities, and funeral establishments. The proposed Complaint alleges that the State Board violated Section 5 of the Federal Trade Commission Act by unlawfully restraining competition in the retail funeral casket market in the State of Missouri by promulgating a regulation that defined the practice of funeral directing to include selling at-need funeral merchandise. In support of its allegations, the Federal Trade Commission cites Mo. Rev. Stat. §333.251:

"Nothing in this chapter shall apply to nor in any manner interfere with the duties of any officer of local or state institutions, nor shall this chapter apply to any person engaged simply in the furnishing of burial receptacles for the dead, but shall only apply to persons engaged in the business of embalming or funeral directing."

From the documents published by the Federal Trade Commission regarding the proceeding against the State Board, it is not possible to determine whether consideration was given by the Federal Trade Commission to the State Board's authority to regulate the preneed sales of caskets under Mo. Rev. Stat. §436.005 et. seq. ("Chapter 436"). Under the provisions of Chapter 436, entities must be registered with the State Board as preneed sellers and/or preneed providers.

Mo. Rev. Stat. §436.015. 1. provides that :

No person shall perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract unless, at the time of such performance, agreement or designation:

- (1) Such person is licensed by the state board as a funeral establishment pursuant to the provisions of section 333.061, RSMo, but such person need not be licensed as a funeral establishment if he is the owner of real estate situated in Missouri which has been formally dedicated for the burial of dead human bodies and the contract only provides for the delivery of one or more grave vaults at a future time and is in compliance with the provisions of chapter 214, RSMo; and

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(2) Such person is registered with the state board and files with the state board a written consent authorizing the state board to order an examination and if necessary an audit by the staff of the division of professional registration who are not connected with the board of its books and records which contain information concerning preneed contracts sold for, in behalf of, or in which he is named as provider of the described funeral merchandise or services.

In essence, R.S.Mo. §436.015.1(1) states that no person shall agree to perform the obligations of a preneed contract provider unless such person is licensed by the State Board as a funeral establishment pursuant to the provisions of section 333.061, RSMo. An exception is made for cemeteries to provide vaults.

The performance of a Missouri preneed contract for a casket would entail the preneed seller utilizing a trust account, insurance policy or joint bank account to purchase the casket from the designated provider upon the death of the named beneficiary. Chapter 436 authorizes the sale of preneed contracts by entities other than licensed funeral homes or licensed funeral directors. However, R.S.Mo. §436.015.1(1) has the effect of limiting the performance of preneed casket sales to licensed funeral homes.

Clarification has been sought from the State Board regarding its intentions to enforce R.S.Mo. §436.015.1(1) subsequent to the resolution of the above referenced proceeding, but the State Board's position had not been received by the completion of this comment.

The Federal Trade Commission is requested to include this comment as a part of the public record to be considered when determining whether to make the proposed Order final.

Sincerely,

William Stalter

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Cc: Frank Milles
Lewis Hoch
Robert Kupits