



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

April 27, 2004

Kevin B. Chilson
Chilson Funeral Home
200 Fairlawn Avenue West
P.O. Box 1097
Winsted, MN 55395

Dear Mr. Chilson:

Thank you for your recent letter to the FTC's Consumer Response Center, which has been forwarded to me for response. You enclose a General Price List ("GPL") that Iten Funeral Homes recently provided to a consumer. You ask the FTC's legal opinion on whether the GPL complies with the FTC Funeral Rule.

First, I cannot state definitively whether Iten Funeral Home violated the Funeral Rule because that would be an impermissible legal opinion. Whether Crist has actually violated the Funeral Rule is a factual and legal question that only the courts can determine. However, I can offer an informal staff opinion on the requirements of the Funeral Rule. You should note that this is the opinion of FTC staff only and is not binding on the Commission or on any individual Commissioner. Having given those disclaimers, here is my interpretation of the Funeral Rule requirements that are applicable to the GPL you sent.

You seem to have three primary concerns with the GPL. First, you ask whether the funeral home must list a charge for goods and services offered in connection with "Use of Funeral Home Facilities" and with "Transportation" (and which are listed in the GPL as "no charge."). Second, you ask whether the home should have listed or itemized the prices and goods or services included in the cost of a memorial service and in the cost of a funeral service for an infant or child. Third, you ask whether the crematory charge should be listed as part of the direct cremation charge rather than as a cash advance item.

As you know, the Federal Trade Commission does not regulate the prices charged by funeral providers. The purpose of the Funeral Rule is to make price information readily available to consumers to enable them to do comparative shopping for funeral goods and services. In addition, disclosures required to appear on the general price list inform consumers that they have the right to purchase only those goods and services that they specifically select. The Rule seeks to promote informed decision-making so that consumers are able to make funeral arrangements that are within their means. To that end, the Funeral Rule requires funeral providers to give consumers an accurate price list itemizing its prices for 16 specific items of funeral goods and services. The Rule does not require that the funeral home offer all 16 of these goods and

services. If a funeral home does not offer a particular good or service, it need not list that good or service on its GPL. In addition, the Rule does not prohibit listing other items that the home offers, including the prices for any package funerals. Among the specified 16 items for which prices must be listed are (1) use of facilities and staff for viewing; (2) use of facilities and staff for funeral ceremony; (3) use of facilities and staff for memorial service; (4) use of facilities and staff for graveside service; and (5) limousine. Iten's GPL does not list prices for these five items.

In the FTC's business publication "Complying with the Funeral Rule," the Commission staff states that a funeral home:

cannot list any of the 16 items required to be separately itemized on the GPL as "free" or "no charge." Because you recover the cost of the free item in your other prices on the GPL, the customer may not have the choice of rejecting the charge. However, you can offer items not required to be separately itemized on the General Price List (such as acknowledgment cards) at "no charge," as long as your state or local laws do not prohibit this practice. (p. 27)

Thus, items on the Iten GPL that are not required to be separately itemized – e.g., the flower car, pallbearer vehicle, and funeral sedan -- can be listed at "no charge" if they are available at no charge to all consumers who make any type of funeral arrangement with the home. However, the home must list a specific price if the charge is available at "no charge" only to some consumers while other consumers are charged separately, depending on the type of funeral service they buy. In that instance, the charges become declinable fees for specific goods or services.

Iten's GPL lists "no charge" for use of the preparation room when the consumer buys the standard funeral package. However, the FTC's "Complying with the Funeral Rule" states that the price for embalming should include use of the preparation room. Therefore, Iten's GPL does not comport with the Funeral Rule with respect to that item.

The Funeral Rule allows a funeral provider to use separate price lists for special groups, such as funeral arrangements for children and infants. The Rule allows funeral providers to list the different fees in two ways: (1) on the GPL, Casket Price List and Outer Burial Price List, along with the regular offerings; or (2) a separate price list for these arrangements. If the funeral provider prepares separate price lists, he or she need not give them out to anyone except those persons inquiring about a funeral for a child or an infant. (See "Complying with the Funeral Rule" (p. 14))

In addition, the Funeral Rule does not require the GPL to include the cost of cremation in the price for direct cremation. In "Complying with the Funeral Rule, the Commission staff states:


The price of the actual cremation of the deceased may or may not be included in your charge for direct cremation. If you own a crematory, it would be appropriate to include the cremation charge in this fee. However, if you use a crematory that someone else

owns, you may treat this charge as a cash advance item. In that case, you should make clear to the customer that there will be an added charge by the crematory. (p. 10)

I am enclosing a copy of the Commission's guide "Complying with the Funeral Rule" for your future reference.

I hope this information is helpful to you.

Sincerely,

A handwritten signature in cursive script that reads "Carole I. Danielson". The signature is written in black ink and is positioned above the printed name.

Carole I. Danielson
Senior Investigator and
Funeral Rule Coordinator

Enclosure