

## **TIS THE SEASON**

By

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The last quarter of the federal government's fiscal year is upon us. The fiscal year will end on September 30, 2015 and for funeral homes that usually means an increase in undercover shopping by the FTC. In the past, we have seen a marked increase in undercover shopping activity by the FTC and state attorney general offices in the final fiscal quarter of July – September. So while funeral homes should always be cognizant of the Funeral Rule requirements, it may be prudent to remind funeral home staff of the importance to hand out price information to shoppers in a timely manner.

Ohio has frequently been a target for FTC undercover shopping. Unfortunately, our compliance rate has not been as high as it should be. To assist OFDA members, we have set forth below five compliance tips to review with your staff.

1. Combine Price Lists. One of the easiest ways to avoid being cited by FTC undercover shoppers for failing to hand out a Casket Price List and/or Outer Burial Container Price List, is to combine the Casket Price List and Outer Burial Container Price List with the General Price List. If a funeral home lists all of the caskets and alternative containers that it routinely offers for sale on its General Price List, it does not need a separate Casket Price List. In addition, by listing its outer burial containers that it routinely offers for sale together with the mandatory disclosure that must appear on the Outer Burial Container Price List on the General Price List, the funeral home may do away with a separate Outer Burial Container Price List. Instead of having to worry about when to hand out three separate price lists, the funeral home now only needs to hand out the General Price List in a timely manner.

2. Use Care with Package Price Lists. While funeral homes that offer packages may list the packages on a separate Package Price List, there is a danger in doing so. The danger is that the funeral home will hand out the Package Price List before handing out the General Price List. The General Price List must always be given out before the Package Price List is shown to a consumer. For this reason, it is generally advisable that packages appear on the General Price List and not on a separate Package Price List. While that is not required, it protects funeral homes from inadvertently distributing the Package Price List before handing out the General Price List.

3. Be Careful Where Funeral Arrangements Are Made. FTC Funeral Rule Coordinator Craig Tregillus reported during a recent teleconference that several funeral homes had been cited for Funeral Rule violations because they made arrangements in rooms with casket and/or outer burial container displays. Undercover shoppers were seated in the room before a funeral director came in to discuss arrangements. Since the shoppers were being shown caskets and outer burial containers before being given a Casket Price List or an Outer Burial Container Price List, the FTC believes that a Funeral Rule violation took place. Therefore, if funeral arrangements are going to be made in rooms containing casket or outer burial container displays, make sure that the family is given a General Price List, Casket Price List and Outer Burial Container Price List before or as soon as they enter the room.

4. Hand Out The GPL Sooner Rather Than Later. While the requirement to hand out the General Price List is triggered by the beginning of a discussion of funeral goods, services, arrangements or prices, there is no reason not to hand it out as soon as you meet the shopper. Make it part of every funeral director's routine. Greet the shopper, hand them the GPL, and explain that we will be reviewing it later, but that you wanted to be sure they had it upfront.

5. Content. In testing Funeral Rule compliance during undercover shops, the FTC traditionally focused on whether the shopper received the price list in a timely manner. However, recently we have seen the FTC closely examine price lists they receive from funeral homes they have shopped. If those price lists have three or more substantive mistakes (missing disclosures or improper itemization), the funeral home will be cited by the FTC. Make sure your price lists are in full compliance with the Funeral Rule.

If any OFDA members have questions regarding Funeral Rule compliance issues, they may contact General Counsel Scott Gilligan at 513-871-6332.