

# 2627



# HEFFNER

Funeral Chapel & Crematory, Inc.

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September 24<sup>th</sup>, 2007

Michelle T. Smey, Administrative Officer  
State Board of Funeral Directors  
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RE: Proposed Pre-Need Regulation # 16A-4815 (Pre-Need Funeral Arrangements)

Dear Ms: Smey,

My name is Ernie Heffner. I am submitting this letter to go on record as being adamantly opposed to the Proposed Pre-Need Regulation #16A-4815 for a number of reasons. By reference, I request that the comments of Attorney James J. Kutz attached hereto and dated September 24<sup>th</sup>, 2007, written on behalf of the Pennsylvania Cemetery, Cremation & Funeral Association (PCCFA) be incorporated as part of this notice. I agree with his detailed comments in opposition to this ill conceived and ill advised proposed regulation.

It is disappointing to witness the Funeral Board continue to act as the alter ego of the Pennsylvania Funeral Directors Association (PFDA) in what seems to be a conspired ongoing effort to maintain an anti-trust, time of need stronghold for PFDA and its members.

Specifically regarding Proposed Pre-Need Regulation # 16A-4815;

1. This is the third attempt by this Board to "legislate" and circumvent a Commonwealth Court *en banc* decision authored by Judge Dan Pellegrini.
2. This is an effort to provide opportunity and incentive for PFDA to proselytize consumers to its for-profit, wholly owned subsidiary and away from those providers not in lock-step with PFDA.
3. This ignores the Social Security Administration's SSI qualification requirement that exempts a consumer's funds if they had been paid money subsequent to an irrevocable pre-need contract.
4. This is an anti-trust, protectionist, anti-consumer effort masquerading as a solution to a consumer problem when reality is completely opposite.
5. This violates my rights under the U. S. Constitution by proposing that I may not have an ownership interest in any other entity involved in the sale of funeral merchandise or goods, even though nowhere in the law is this prohibited.

This fifth item is particularly offensive and astounding. It is as if Proposed Pre-Need Regulation # 16A-4815 is an official notice to me and others like me to return to Federal Court. I am one of the plaintiffs who previously sought relief in Federal Court from this Board's willing violation of the U.S. Constitution when it adopted the now infamous

**1551 Kenneth Rd., York, PA 17408**

Resolution, which was penned by and provided by PFDA. Having prevailed in that matter, for which the Commonwealth paid \$55,000 in restitution of legal fees, it is now difficult to fathom this Board's willingness to knowingly and zealously again disregard the U.S. Constitution after previously being found to have been in violation thereof.

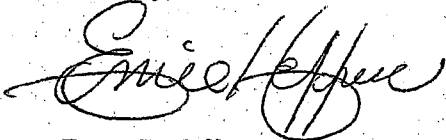
This board's demonstrated disregard for higher authority has a track record whether that authority is a Commonwealth Court *en banc* decision, a Federal Court order or directives from the Governor's Office. In fact, the disregard is so blatant as to be documented in official minutes of the funeral board itself! In response to a Federal Court Order, members of the funeral board not only commented outside of official public meetings but also in public meetings making revealing statements that include, "Who cares what the Judge said? Who cares what the Judge wants?" These statements came from an attorney on the board!

I am sad to see a proposed regulation that is anti-competitive and anti-consumer and nothing more than a ploy to line the coffers of a trade cartel and its members. In a time when we have soldiers being maimed and dying every day in an attempt to provide freedoms to people in a foreign land, I find it to be unconscionably offensive that this board continues to succumb to the pressures of PFDA acting as its alter ego and ignoring Commonwealth Court, Federal Court and specific directives from the Governor's Office all for the less than noble, anti-consumer purposes.

On numerous sad occasions, my associates and I have respectfully received the remains of fallen heroes, soldiers who have made the ultimate sacrifice. These fallen heroes willingly and unquestioning followed orders and put themselves in harm's way to protect our interests, which include our American freedoms and the protections guaranteed by the U.S. Constitution. All Americans, particularly we civilians, have a responsibility to defend the U.S. Constitution from those who would administratively seek and conspire to undermine it.

I can only hope that this board will do the right thing and withdraw Proposed Pre-Need Regulation # 16A-4815 in an effort to put itself on a consumer friendly course that encourages an open market place, fair competition and does not violate the U.S. Constitution.

Sincerely,



Ernest F. Heffner  
Licensed Funeral Director

C: Jim Kutz

John Jewett, IRRC

Representative Mike Sturla, Chairman, House Professional Licensure Committee

Representative Stan Saylor, Member House Professional Licensure Committee

Lowell Thomas, Office of the Governor