



HEFFNER RECEIVED

Funeral Chapel & Crematory, Inc.

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INDEPENDENT REGULATORY
REVIEW COMMISSION

October 1, 2007

Arthur Coccodrilli, Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor,
Harrisburg, PA 17101
Phone 717-783-5417

Submitted Via Email To: irrc@irrc.state.pa.us with FedEx Hardcopy to follow

RE: Proposed Pre-Need Regulation # 16A-4815 (Pre-Need Funeral Arrangements) published 8.25.07;
Proposed Regulation No. 16A-4816 (Pre-Need activities of unlicensed employees) published 9.29.07

Dear Chairman Coccodrilli,

My name is Ernie Heffner. I am a licensed funeral director and I am opposed to both Proposed Pre-Need Regulation #16A-4815 (Pre-Need Funeral Arrangements) published 8.25.07 and its companion Proposed Pre-Need Regulation # 16A-4816 (Pre-Need Activities of Unlicensed Employees) published 9.29.07.

The purpose of expressing my opinion in this letter is to provide questions and documentation that I believe will offer insight as to the motivations of the proponents of these proposed regulations, both proposed regulations of which I and others perceive to be anti-consumer, anti-trust and protectionist.

There exists and intricate web of players, relationships, history and financial motivations that range from a non-profit trade association to its for profit subsidiary to members of the State Board of Funeral Directors to a member of the House Professional Licensure Committee. I would sincerely appreciate your consideration of not approving either of the proposed pre-need regulations. Attachments [a. through h.] are provided for your reference in considering the following questions.

If these proposed regulations are anti-consumer, why would the State Board of Funeral Directors and certain members of the industry be in favor of these proposed regulations? Many perceive the Pennsylvania State Board of Funeral Directors to be the alter-ego of the Pennsylvania Funeral Directors Association (PFDA) by virtue of regulatory capture. The PFDA is a non-profit organization that has a wholly owned for-profit subsidiary d.b.a. Pennsylvania Funeral Services Corp, Unichoic and/or SecureChoice. The for-profit company and the non-profit trade association operate a scheme whereby consumer pre-need funds, those monies paid for pre-planning, are channeled to the for-profit entity by participating funeral director members of PFDA. These pre-need funds are then annually charged trust fees exponentially greater than standard market rates resulting in astounding income to the participants. [See 1997 tax return attachment "a" reflecting over one million dollars in revenue in 1997 alone!]

1551 Kenneth Rd., York, PA 17408

**PENNSYLVANIA
AFFILIATES**

RED LION
Olewiler & Heffner

YORK
Everhart-Jackson-Heffner

LEWISBERRY
Beaver Ulrich

POTTSVILLE
Schlitzer-Allen-Pugh

TROY
Vickery

MILL HALL
Helt Chapel

RENOVO
Maxwell

WILLIAMSPORT
Allen & Redmond

WILKES-BARRE
Kniffen O'Malley

AVOCA
Kniffen O'Malley

MILTON
Ranck

ADVANCE PLANNING
Prneed Associates, Inc.

**NEW YORK STATE
AFFILIATE**

WELLSBURG
Roberts

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What happens to that revenue? A portion of the income is annually kicked back to the participating funeral directors.

[See September 28, 2001 PFDA president's letter attachment "b" touting \$600,000 in kickbacks to participating member funeral directors.]

As you know, PFDA benefits directly from the profits and business administrated by the Unichoice Cooperative. PFDA receives financial benefits from office rent, pre-need program royalties and royalties on the sale of marketing materials. Your continued use of the pre-need trust program is vital to the success of PFDA. In addition, Unichoice has paid out more than \$600,000 in dividends to Unichoice participants and PFDA members in 1998, 1999 and 2000.

[See October 2001 PFDA News Letter attachment "c" touting \$600,000 in kickbacks to participating members.]

As you know, PFDA benefits directly from the profits and business administrated by the Unichoice Cooperative. Your continued use of the pre-need trust program is vital to the success of PFDA. In addition, Unichoice has paid out more than \$600,000 in dividends to Unichoice participants and PFDA members in 1998, 1999 and 2000.

What is a current "standard market rate" for trust administration fees? While the fees may vary somewhat, it is my experience that approximately 70 basis points would be competitive, reasonable and appropriate. You could confirm that with Ameriserv Trust by contacting Ernie Peterson at epetersen@ameriserv.com. You might also seek to know the exact charges by PFDA et al that enable them to pay PNC a trust fee AND kick back more than \$600,000 to participating funeral director members.

Where are these trust fees drawn from? While in theory they should be drawn from earnings of the trust, they have on occasion been paid by invading the corpus of what was supposed to be and is promoted as a 100% funded trust. In years with losses, as referenced in their 2001 news letter, there were member participants that realized losses of as much as 40% of the original deposit and yet fees beyond standard market rates were drawn from the trust and kicked back to participating members.

Who are examples of the participants in the PFDA/Unichoice/SecureChoice Trust? According to their funeral home websites as of this date, participants include at least one legislator, Representative Harry Readshaw, vice-chairman of the Professional Licensure Committee and at least one funeral board member, Joseph A. Fluehr, III. Here are quotes direct from their websites today.

Harry Readshaw: <http://www.readshawfuneralhome.com/pre-payment.php> "The Trust Program we offer uses PNC Bank which is through the Pennsylvania Funeral Directors Association"

Joseph Fluehr, III: <http://www.fluehr.net/preneed.php> "Through the Pennsylvania Funeral Directors Association, we are able to offer you several options of funding for your pre-planned funeral services."

NOTE: While these two proponents of the proposed regulations profess to be pro-consumer, there is no price information whatsoever on their websites, not for services, caskets or any other merchandise.

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Are there other members of the State Board of Funeral Directors who have a relationship with PFDA et al? Donald Murphy serves on the State Board as an alleged Public Member which is interesting in that pre-retirement he served as counsel to PFDA. One might ponder his qualifications to serve as an unbiased Public Member.

Are all board members in lock-step with PFDA? While the record indicates that the board members voted unanimously to promote the proposed regulations, in the funeral home website question and answer section of Professional Member, Bennett Goldstein, there appears to be a contradiction to his vote. <http://goldsteinsfuneral.com/prefuneralarrangements.html>

“What happens to the money for the funeral I have pre-arranged?
The monies are placed in an **irrevocable trust** in an FDIC insured banking institution. Also, just as a related aside, **all licensed nursing homes in the state now require funeral pre-arrangements for residents covered under its Medicaid benefits program.**”

Who are some of the “others” that would be opposed to the regulations? Although there are numerous individuals and provider organizations, here are four examples for which I am providing written objections from the referenced organization or individual.

1. The Pennsylvania Cemetery Cremation and Funeral Association (PCCFA) has gone on record as being opposed to this regulation. Please see 9.25.07 PCCFA letter [attachment “d”] that includes the letter dated 9.24.07 from PCCFA counsel, James J. Kutz, Post & Schell to the State Board of Funeral Directors.
2. Also in opposition is a letter dated 9.25.07 from Ron Virag, President and CEO of Ameriserv Trust and Financial Services Company, a bank trustee [see attachment “e”].
3. Additional letters in opposition sent to the State Board of Funeral Directors include a 9.20.07 letter from provider Harry C. Neel, President of Jefferson Memorial Funeral Home [see attachment “f”] and a 9.24.07 letter from me [see attachment “g”].

How much income and subsequent kickbacks are currently involved in the scheme involving PFDA et al? This question is difficult to determine. [See 2003 PFDA Tax Return attachment “h”]. It appears that employee expense for PFDA has been moved to the for-profit subsidiary and that only required excerpts from the for-profit entity’s tax return are now included with the non-profit’s tax return. Thus, information regarding the for-profit is incomplete.

Are there any other comments not previously included in attachment “g” referenced above?

This regulation is motivated by the potential to increase deposits to the PFDA et al trust funds for the benefit of the highest compensated individuals at the top of the organization [the executive director of PFDA and the in house counsel] and to perpetuate the kick backs to the participating members.

Also noteworthy is the fact that when PFDA is requested to transfer monies from their profitable

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trust scheme to a competitive bank trustee, PFDA inserts language into the release that indemnifies them from any wrong doing including fraud and criminal acts! Fraud and criminal acts by a self professed pro-consumer group?

Summary: I stand by my comments in my 9.24.07 letter to the Funeral Board and the 9.24.07 critically important comments of Attorney Jim Kutz on behalf of PCCFA. In my opinion, neither of these regulations is motivated by a legitimate consumer need but is rather a shameful protectionist effort by a trade group, the funeral board of which it has regulatory capture and those legislative participants to establish an anti-consumer, anti-trust and unconstitutional pair of regulations.

Thank you for your consideration.

Sincerely,



Ernest F. Heffner
Licensed Funeral Director

Copies via Email To:

John H. Jewett, Regulatory Analyst, IRRC, jjewett@irrc.state.pa.us

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Representative P. Michael Sturla, Chairman, House Professional Licensure Committee,
msturla@pahouse.net

Marlene Tremmel, Executive Director, House Professional Licensure Committee
mtremmel@pahouse.net

Christine Line, Counsel, House Professional Licensure Committee, cline@pahousegop.com

Donald F. Morabito, D. Ed, Office of Public Liaison, dmorabito@state.pa.us

Representative Stanley Saylor, House Professional Licensure Committee, ssaylor@pahousegop.com

Ron Virag, President and CEO, Ameriserv Trust and Financial Services Company,
rvirag@ameriservfinancial.com

Ernie Peterson, Ameriserv Trust and Financial Services Company, epetersen@ameriserv.com

James J. Kutz, Esquire, jkutz@postschell.com

PCCFA

2949016400811

DMB No. 1218-0247

Form 990

Return of Organization Exempt From Income Tax

Under section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust

1997

Department of the Treasury Internal Revenue Service

Note: The organization may have to use a copy of this return to satisfy state reporting requirements.

This Form is Open to Public Inspection

A For the 1997 calendar year, OR tax year period beginning 1997, and ending 1998

- B Check if: Change of address, Initial return, Final return, Amended return...

C PA FUNERAL DIRECTORS ASSOCIATION 7441 ALLENTOWN BLVD. HARRISBURG, PA 17112

D Employer identification number 23-0607055 E State registration number F Check if exception application is pending

G Type of organization Exempt under section 501(c) (5) (insert number) OR section 4947(a)(1) nonexempt charitable trust

H(a) Is this a group return filed for affiliates? (b) If "Yes," enter the number of affiliates... (c) Is this a separate return filed by an organization covered by a group ruling? I Accounting method: Cash Accrual Other (specify)

K Check here if the organization's gross receipts are normally not more than \$25,000. The organization need not file a return with the IRS...

Part III Revenue, Expenses, and Changes in Net Assets or Fund Balances (See Specific Instructions on page 11.)

Table with 21 rows and multiple columns for revenue, expenses, and net assets. Includes sub-rows for contributions, program services, membership dues, interest, dividends, gross rental income, and special events.

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Part II Statement of Functional Expenses

All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations and section 4947(a)(1) nonexempt charitable trusts but optional for others. (See specific instructions on page 18.)

Do not include amounts reported on line 6b, 6c, 6d, 10b, or 16 of Part I.	(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
22 Grants and allocations (att. sch.)				
23 Specific assistance to individuals (att. sch.)				
24 Benefits paid to or for members (att. sch.)				
25 Compensation of officers, directors, etc.	49,606	0		
26 Other salaries and wages	61,034	0		
27 Pension plan contributions	14,579	0		
28 Other employee benefits	10,887	0		
29 Payroll taxes	8,131	0		
30 Professional fundraising fees				
31 Accounting fees	24,173			
32 Legal fees	22,574			
33 Supplies	5,638			
34 Telephone	6,382			
35 Postage and shipping	12,273			
36 Occupancy	28,800			
37 Equipment rental and maintenance	11,260			
38 Printing and publications	44,228			
39 Travel	1,133			
40 Conferences, conventions, and meetings	67,947			
41 Interest	3,694			
42 Depreciation, depletion, etc. (attach schedule)				
43 Other expenses (Itemize): a See Stmt, 2	46,428			
b				
c				
d				
e				
44 Total functional expenses (add lines 22 thru 43) Organizations completing columns (B)-(D), carry these totals to lines 13-16.	418,968			

Reporting of Joint Costs. - Did you report in column (B) (Program services) any joint costs from a combined educational campaign and fundraising solicitation? **N/A.** Yes No
 If "Yes," enter (i) the aggregate amount of these joint costs \$ _____; (ii) the amount allocated to Program services \$ _____; (iii) the amount allocated to Management and general \$ _____; and (iv) the amount allocated to Fundraising \$ _____.

Part III Statement of Program Service Accomplishments (See Specific instructions on page 18.)

What is the organization's primary exempt purpose? See attached	Program Service Expenses (Required for 501(c)(3) and (4) orgs. and 4947(a)(1) trusts but optional for others.)
a See Statement 3	
(Grants and allocations \$ _____)	
b	
(Grants and allocations \$ _____)	
c	
(Grants and allocations \$ _____)	
d	
(Grants and allocations \$ _____)	
e Other program services (attach schedule)	
(Grants and allocations \$ _____)	
f Total of Program Service Expenses (should equal line 14, column (B), Program services)	

Part IV Balance Sheets (See specific instructions on page 19.)

Note: Where required, attached schedules and amounts within the description column should be for end-of-year amounts only.

		(A) Beginning of year		(B) End of year	
ASSETS	45 Cash - non-interest-bearing		45		
	46 Savings and temporary cash investments	248,089	46	413,531	
	47 a Accounts receivable	47a			
	b Less: allowance for doubtful accounts	47b		47c	
	48 a Prepaids receivable	48a			
	b Less: allowance for doubtful accounts	48b		48c	
	49 Grants receivable		49		
	50 Receivables from officers, directors, trustees, and key employees (attach sch)		50		
	51 a Other notes and loans receivable (attach schedule)	51a			
	b Less: allowance for doubtful accounts	51b	9,292	51c	
	52 Inventories for sale or use		52	5,304	
	53 Prepaid expenses and deferred charges		53		
	54 Investments - securities (attach schedule)		54		
	55 a Investments - land, buildings, and equipment: b Less: accumulated depreciation (attach schedule) Stmt. 4	55a 758,993 55b 237,950		55c 521,042	
	56 Investments - other (attach schedule)		781,922	56	
57 a Land, buildings, and equipment: base	57a				
b Less: accumulated depreciation (attach schedule)	57b		57c		
58 Other assets (describe ▶ See Statement 5)		2,500	58	1,261	
59 Total assets (add lines 45 through 58) (must equal line 74)		1,041,603	59	941,138	
LIABILITIES	60 Accounts payable and accrued expenses		60		
	61 Grants payable		61		
	62 Deferred revenues		62		
	63 Loans from officers, directors, trustees, and key employees (attach schedule)		63		
	64 a Tax-exempt bond liabilities (attach schedule)		64a		
	b Mortgages and other notes payable (attach schedule)		64b		
	65 Other liabilities (describe ▶ See Statement 6)		184,911	65	17,590
66 Total liabilities (add lines 60 through 65)		184,911	66	17,590	
NET ASSETS OR FUND BALANCES	Organizations that follow SFAS 117, check here <input checked="" type="checkbox"/> and complete lines 67 through 69 and lines 73 and 74.				
	67 Unrestricted	790,123	67	854,621	
	68 Temporarily restricted	66,769	68	68,927	
	69 Permanently restricted		69		
	Organizations that do not follow SFAS 117, check here <input type="checkbox"/> and complete lines 70 through 74.				
	70 Capital stock, trust principal, or endowment funds		70		
	71 Paid-in or capital surplus, or land, building, and equipment fund		71		
	72 Retained earnings, endowment, accumulated income, or other funds		72		
73 Total net assets or fund balances (add lines 67 through 69 OR lines 70 through 72; column (A) must equal line 19 and column (B) must equal line 21)		856,892	73	923,548	
74 Total liabilities and net assets/fund balances (add lines 66 and 73)		1,041,603	74	941,138	

Form 990 is available for public inspection and, for some people, serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes, in Part III, the organization's programs and accomplishments.

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Part IV-A Reconciliation of Revenue per Audited Financial Statements with Revenue per Return (See Specific Instructions, page 20.)

a Total revenue, gains, and other support per audited financial statements	a 422,244
b Amounts included on line a but not on line 12, Form 990:	
(1) Net unrealized gains on investments	\$
(2) Donated services and use of facilities	\$
(3) Recoveries of prior year grants	\$
(4) Other (specify):	\$
Add amounts on lines (1) through (4)	b
c Line a minus line b	c 422,244
d Amounts included on line 12, Form 990 but not on line a:	
(1) Investment expenses not included on line 6a, Form 990	\$
(2) Other (specify):	\$
See St. 7	\$ 63,380
Add amounts on lines (1) and (2)	d 63,380
e Total revenue per line 12, Form 990 (line a plus line d)	e 485,624

Part IV-B Reconciliation of Expenses per Audited Financial Statements with Expenses per Return

a Total expenses and losses per audited financial statements	a 418,968
b Amounts included on line a but not on line 17, Form 990:	
(1) Donated services and use of facilities	\$
(2) Prior year adjustments reported on line 20, Form 990	\$
(3) Losses reported on line 20, Form 990	\$
(4) Other (specify):	\$
Add amounts on lines (1) through (4)	b
c Line a minus line b	c 418,968
d Amounts included on line 17, Form 990 but not on line a:	
(1) Investment expenses not included on line 6b, Form 990	\$
(2) Other (specify):	\$
Add amounts on lines (1) and (2)	d
e Total expenses per line 17, Form 990 (line a plus line d)	e 418,968

Part V List of Officers, Directors, Trustees, and Key Employees (List each one even if not compensated; see Specific Instructions on page 20.)

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (if not paid, enter -0-)	(D) Contributions to employee benefit plans & deferred compensation	(E) Expenses amount and other allowances
JOHN F. HARRISON DISTRICT #5 RICHMOND, PA 15403	IMMED PAST PR 1	0	0	0
GREGORY P. ROHAMNA DISTRICT #3 JEFFERSON, PA 15344	PRESIDENT 1	0	0	0
JAMES D. HAHN DISTRICT #2	PRESIDENT ELE 1	0	0	0
WILLIAM C. WILLIAMS, JR	MEMBER AT LAR 1	0	0	0
JOHN W. BIRKSON 441 ALLENTOWN BLVD. HARRISBURG, PA 17112	EXECUTIVE DIR 40	49,606	4,917	0
PUBLIC INS				

75 Did any officer, director, trustee, or key employee receive aggregate compensation of more than \$100,000 from your organization and all related organizations, of which more than \$10,000 was provided by the related organizations? **See Stmt. 9** Yes No
If "Yes," attach schedule - see Specific Instructions on page 23.

Part VII Other Information (See Specific Instructions on page 21.)

		Yes	No
76	Did the organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity.		X
77	Were any changes made in the organizing or governing documents but not reported to the IRS? If "Yes," attach a confirmed copy of the changes.		X
78 a	Did the organization have unrelated business gross income of \$1,000 or more during the year covered by this return?		
b	If "Yes," has it filed a tax return on Form 990-T for this year?	X	
79	Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," attach a statement.		X
80 a	Is the organization related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization?		X
b	If "Yes," enter the name of the organization: PENNSYLVANIA FUNERAL SERVICES, CORP. and check whether it is <input type="checkbox"/> exempt OR <input checked="" type="checkbox"/> nonexempt.		
81 a	Enter the amount of political expenditures, direct or indirect, as described in the instructions for line 81. 81a 0		
b	Did the organization file Form 1120-POL for this year?		X
82 a	Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?		X
b	If "Yes," you may indicate the value of these items here. (Do not include this amount as revenue in Part I or as an expense in Part II. (See instructions for reporting in Part II). 82b N/A		
83 a	Did the organization comply with the public inspection requirements for returns and exemption applications?	X	
b	Did the organization comply with the disclosure requirements relating to quid pro quo contributions?	X	
84 a	Did the organization solicit any contributions or gifts that were not tax deductible?	X	
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?	X	
85	501(c)(4), (5), or (6) organizations. - a Were substantially all dues nondeductible by members?		X
b	Did the organization make only in-house lobbying expenditures of \$2,000 or less? If "Yes" was answered to either 85a or 85b, do not complete 85c through 85f below unless the organization received a waiver for proxy tax owed for the prior year.		X
c	Dues, assessments, and similar amounts from members.	85c 285,012	
d	Section 162(e) lobbying and political expenditures.	85d 9,763	
e	Aggregate nondeductible amount of section 5032(a)(1)(A) dues notices.	85e 34,201	
f	Taxable amount of lobbying and political expenditures (line 85d less 85e).	85f -24,438	
g	Does the organization elect to pay the section 5032(a) tax on the amount in 85f?	85g N/A	
h	If section 5032(a)(1)(A) dues notices were sent, does the organization agree to add the amount in 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year?	85h N/A	
86	501(c)(7) organizations. - Enter:		
a	Initiation fees and capital contributions included on line 12.	86a N/A	
b	Gross receipts, included on line 12, for public use of club facilities.	86b N/A	
87	501(c)(12) organizations. - Enter: a Gross income from members or shareholders.	87a N/A	
b	Gross income from other sources. (Do not net amounts due or paid to other sources against amounts due or received from them.)	87b N/A	
88	At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership? If "Yes," complete Part IX.		X
89 a	501(c)(3) organizations. - Enter: Amount of tax imposed during the year under: N/A section 4911; section 4912; section 4955.		
b	501(c)(3) and 501(c)(4) organizations. - Did the organization engage in any section 4955 excess benefit transaction during the year? If "Yes," attach a statement explaining each transaction.		N/A
c	Enter: Amount of tax imposed on the organization managers or disqualified persons during the year under sections 4912, 4955, and 4958.		N/A
d	Enter: Amount of tax in 89c, above, reimbursed by the organization.		N/A
90 a	Let the states with which a copy of this return is filed.		
b	Number of employees employed in the pay period that includes March 12, 1997 (See instructions).	90b	
91	The books are in care of: BOOKKEEPER Telephone no. 717-545-7215 Located at: 7441 ALLENTOWN BLVD, HBG, PA ZIP+4: 17112		
92	Section 4947(a)(1) nonexempt charitable trusts filing Form 990 in lieu of Form 1041 - Check here <input type="checkbox"/> and enter the amount of tax-exempt interest received or accrued during the tax year. 92 N/A		

1997

Federal Statements

Page 1

Client 06-23855

PA FUNERAL DIRECTORS ASSOCIATION

23-0607055

Statement 1
Form 990, Part I, Line 1d
Contributions, Gifts, and Grants

Not Open to Public Inspection

No single contributor gave \$5,000 or more during the year.

PUBLIC INS

Client 06-23855

PA FUNERAL DIRECTORS ASSOCIATION

23-0607055

Statement 2
Form 990, Part II, Line 43
Other Expenses

Other Expenses	(A) Total	(B) Program Services	(C) Management & General	(D) Fundraising
PRESIDENT'S EXPENSE	\$ 6,215			
BOARD OF DIRECTOR'S EXPENSE	17,637			
INSURANCE	55			
DUES AND SUBSCRIPTIONS	3,986			
STAFF EXPENSES	9,893			
CONTRIBUTIONS	2,025			
MISCELLANEOUS	6,617			
Total	\$ 46,428			

Statement 3
Form 990, Part III, Line a
Statement of Program Service Accomplishments

Description	Grants and Allocations	Program Service Expenses
ACTIVITIES INCLUDE PROMOTION OF THE INDUSTRY AND EDUCATION OF MEMBERSHIP AND THE PUBLIC THROUGH ANNUAL CONVENTIONS, PUBLICATIONS AND PUBLIC AWARENESS	\$	
	\$	

Statement 4
Form 990, Part IV, Line 55
Investments-Land, Buildings, and Equipment

Asset	Basis	Accumulated Depreciation	Book Value
Automobiles / transportation equip.	\$ 30,495	23,496	6,999
Furniture and fixtures	168,134	116,705	51,429
Buildings	420,553	97,749	322,804

PUBLIC INS

Client 06-23655

PA FUNERAL DIRECTORS ASSOCIATION

23-0607055

Statement 4 (Continued)
Form 990, Part IV, Line 55
Investments—Land, Buildings, and Equipment

Asset	Basis	Accumulated Depreciation	Book Value
Land	\$ 139,810		139,810
Total	\$ 758,992	237,950	521,042

Statement 5
Form 990, Part IV, Line 58
Other Assets

	Ending
ADVANCE	\$ 543
DEPOSIT	710
Total	\$ 1,261

Statement 6
Form 990, Part IV, Line 65
Other Liabilities

	Ending
DUES PAYABLE (NATIONAL & LOCAL)	\$ 14,339
REFUNDS DUE MEMBERS	1,751
SECURITY DEPOSIT	1,500
Total	\$ 17,590

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Statement 7
Form 990, Part IV-A, Line d(2)
Other Amounts

NET EARNINGS IN SUBSIDIARY (EQUITY MET)	\$	63,380
Total	\$	<u>63,380</u>

Statement 8
Form 990, Part V, Line 75
List of Officers, Directors, Trustees, and Key Employees

Name and Related Organization	Compensation	Employee Ben. Plan Contrib.	Expense Account/ Other
JOHN W. BIRKSON PA FUNERAL SERVICES CORP.	\$ 80,258	25,083	0

49,606	497
<u>129,864</u>	<u>30,000</u>
+ 30,000	
<u>159,864</u>	
	Auto + Misc.

PUBLIC INS

1997

Supplemental Information

Page 1

Client 06-23856

PA FUNERAL DIRECTORS ASSOCIATION

23-0607055

PART III - STATEMENT OF PROGRAM SERVICE ACCOMPLISHMENTS

The improvement of business conditions within the Funeral Service profession.

PUBLIC INS.

"b"

Unichoice

*A member-owned cooperative
"Participation pays"*

MEMORANDUM

TO: SecurChoice Pre-need Trust Participants

FROM: Dennis Wiedeman, Chairman, Unichoice Cooperative, Inc.

DATE: September 28, 2001

SUBJECT: Pre-need trust investment expectations

Do to the recent terrorist attacks and market fluctuations many funeral directors are concerned about their pre-need accounts and personal investments. We have been through volatile market and interest conditions before, but those who have "stayed the course" have benefited from the stability of the SecurChoice pre-need trust program.

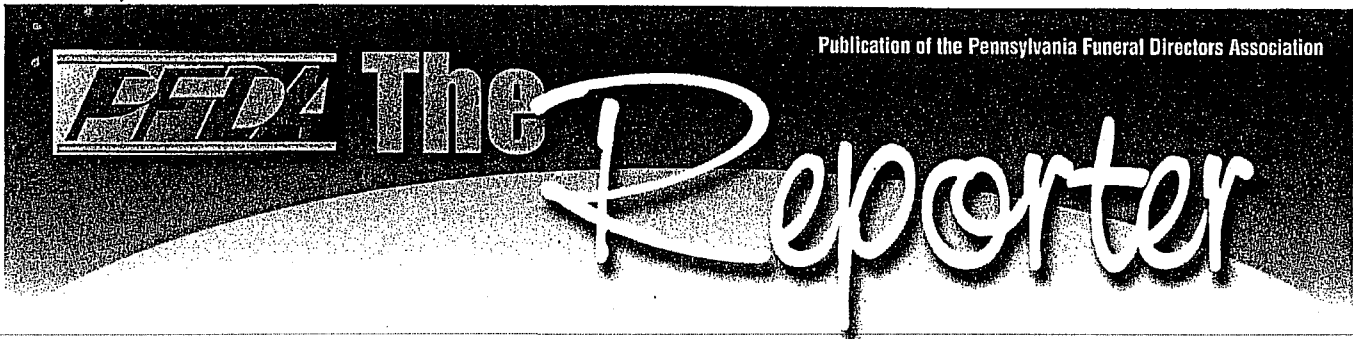
I am enclosing a recent article sent out to investors concerning the current market conditions and I would encourage you to read it.

As you know, PFDA benefits directly from the profits and business administrated by the Unichoice Cooperative. PFDA receives financial benefits from office rent, pre-need program royalties and royalties on the sale of marketing materials. Your continued use of the pre-need trust program is vital to the success of PFDA. In addition, Unichoice has paid out more than \$600,000 in dividends to Unichoice participants and PFDA members in 1998, 1999 and 2000.

If you have any questions, please call the Unichoice office at (877) 468-4824 or (717) 545-7335.

We thank you for your participation.

"C"



Dear Members,

October, 2001

District Meetings Canceled in Light of September 11 Tragedies On September 11, PFDA President Shelby Ferguson II, Executive Director John Eirkson and PFDA counsel Kathleen Ryan were in attendance at the New Jersey State Convention. Early that morning they were as shocked as the rest of the nation to see what was happening to the World Trade Center, the Pentagon and ultimately the crash of Flight 93 in Pennsylvania. Immediately, the decision was made to cancel the September PFDA district meetings. Since the district meetings will not be rescheduled, PFDA is offering to have John Eirkson and Shelby Ferguson II bring their portion of the program out to each local association after January 1. They would also like to share their firsthand view of PFDA's involvement with the United Airlines tragedy in Somerset.

Kathleen Ryan, PFDA's In-house legal counsel, is also available to present a separate program to locals upon invitation. Ms. Ryan's presentation includes compliance with the law and staying out of trouble with the State Board. She will also be giving updates on a new program being made available through SecurChoice™ and PFDA regarding Medicare and Medicaid spend down. Ms. Ryan is already scheduled to present in Erie on October 18 and in Altoona on October 23.

All requests to Ms. Ryan, PFDA staff and officers to come to local meetings should come through the PFDA office. Every attempt will be made to attend your local meeting, so please give ample notification. We apologize for the delays, but believe that this will be the best way to provide you with the most up-to-date information:

United Airlines Flight 93 Involvement PFDA has been involved with the tragedy in Somerset almost immediately following the announcement on television that the flight had crashed in Somerset County. PFDA Past President Jim Pinkerton, who is a part of the national DEMORT team, was in touch with county coroner Wallace Miller, offering his and PFDA's assistance in whatever capacity needed.

As pointed out in a memo to all PFDA members in September, PFDA's involvement with the United tragedy was significantly different than its involvement with the USAir crash. PFDA's involvement this time included establishing a mortuary care center, in which volunteers participated with the DEMORT team to help interview families. Funeral directors assisted the DEMORT team as well by entering data at the site. PFDA was also instrumental by setting up offices at Seven Springs and the armory in Somerset.

~~The use of volunteers from PFDA has been limited.~~ PFDA staff and officers have been utilizing members within a reasonable geographic area of the site to come in and assist. The workflow, in terms of interviews and data entry, varied hour-to-hour and day-by-day, from fairly active to total inactivity. Again, as pointed out in the memo, since this was a crime scene with many layers of agency involvement, PFDA's role in this crash was significantly different. On Friday, September 21, PFDA along with Blairsville Wilbert Burial Vault Company helped to properly place all of the artifacts into a vault, which will be held in an undisclosed location for later interment at a memorial site. PFDA is still involved with the activities in Somerset and will continue to be until notified otherwise. John Eirkson and Shelby Ferguson II will discuss United Flight 93 details with members at future local meetings.

Beware of Collect Calls Recently, some PA funeral directors have complained of \$22 charges on their phone bills for 2-minute collect calls. There is a scam going around where a person, claiming to be from a cremation service, makes collect calls to funeral homes, requesting a cremation price list. In one case a funeral director received the call from a payphone in Providence, RI. Zero Plus Dialing and US Long Distance both appear to be linked to the scam. Funeral directors: please warn your secretaries and answering services to watch out for collect calls from cremation services asking for price lists. If you receive one of these calls, the best thing to do is to reject it or hang up immediately.

Dodge Embalming Seminars Just Around the Corner Don't forget to register for the upcoming Dodge seminars in Pittsburgh and Harrisburg. PFDA is a co-sponsor of these programs, which are designed for embalmers who wish to enhance their embalming and restorative techniques.

The first seminar will be held in Pittsburgh at Robert Morris College on **Monday, October 22, 2001**, from **9:00 a.m. to 3:45 p.m.** John Callahan, a licensed funeral director and embalmer, will be discussing topics such as Organ Procurement and Restoration, Skin Slip, Edema, and Emaciated Eye Restoration. *Preregistration costs are \$65 until October 12 and \$90 after that date.*

The second seminar will be held in Harrisburg at the Holiday Inn on **Friday, November 2, 2001**, from **9:00 a.m. to 3:45 p.m.** Jack Adams, CFSP, will be talking about Successful Organ, Tissue and Bone Donor Restoration. *Preregistration costs are \$60 until October 23 and \$85 after that date.*

You should be receiving a seminar flyer with details and registration information shortly, if you have not gotten one already. For additional information on the seminars, call **Bob Buhrig, CFSP**, at **1-888-BEEP-BOB** or e-mail him at **EmailBeepBob@aol.com**.

PFDA Board Member Biographies **Shelby D. Ferguson II** is currently the President of PFDA. His term as a board member will end in June of 2002. He is the owner of Ferguson Funeral Home, Inc. in Belle Vernon, PA, which has been in business since 1954. His father, Shelby D. Ferguson, previously owned the funeral home and retired in February of 2001. Shelby Ferguson II was born in North Charleroi, PA and grew up in Belle Vernon. He is married to Sue Ferguson and they have three children, Laura, Adam and Karlee.

Mr. Ferguson attended college at the California University of PA and Westmoreland County Community College. He went to mortuary school at the Pittsburgh Institute of Mortuary Science. He is active in the Belle Vernon Fire Department, having served as Past Assistant Chief and Past President. He is a member of the First United Methodist Church and the Masonic Lodge #643. Presently, he is serving as the treasurer of the Belle Vernon Lions Club. Mr. Ferguson is also a Past President and member of the Westmoreland/Indiana/Armstrong board.

Frank E. Schmidt is one of the new PFDA District Governors. His term began in June of 2001 and will end in June of 2005. He has been the Supervisor at King Funeral Home, Inc. in Hampton Township since 1987, but has been employed at the funeral home since 1975. Frank Schmidt was born in Pittsburgh and grew up in a suburb of Millvale. He is married to Mary Ann Schmidt and they have three children, Tiffany, Dan and Justin.

Mr. Schmidt went to college at the Community College of Allegheny County. He attended mortuary school at the Pittsburgh Institute of Mortuary Science. He is a Past President and current Secretary/Treasurer of the Butler County Funeral Directors. He belongs to the Butler County Funeral Directors Legislative Committee and is a charter member of the Hampton Rotary Club. Mr. Schmidt is also a member of the Hampton Business Association, the Richland's Sportsman Club, and the 4th Degree Knights of Columbus, Pittsburgh HOG Chapter.

Ohio Eliminates Indigent Burial Program Through indigent burial funds, funeral directors were being paid up to \$750 per burial. The law in Ohio now requires townships and municipalities to bury or cremate the poor at local government expense. The burial plot will include a concrete or stone marker with the person's name, age and date of death.

-Death Care Business Advisor, September 2001

CANA Releases Annual Cremation Statistics The Cremation Association of North America (CANA) ranks PA as #4 for its number of cremations in 2000. According to the National Vital Statistics, the 2000 estimated death count totaled 133,250 in PA. From this total there were 25,511 cremations. These statistics show that 19% of Pennsylvanians chose cremation over the traditional burial, compared to 16% in 1995.

-Death Care Business Advisor, September 2001

Stewart Enterprises Steers Away from Aggressive Acquisition Stewart is attempting to become a more settled cemetery and funeral home operator. The CFO, Kenneth Budde, says that the company has refinanced to extend the maturity of past debts, which will improve Stewart's ability to negotiate sales of foreign assets.

-Death Care Business Advisor, September 2001

Loewen Group Inc. Suffers Loss The company claims to have lost \$116.7 million, or \$1.60 a share in the second quarter, compared to last year's loss of \$76.3 million, or \$1.06 a share in the same quarter. According to John Lacey, Loewen's chairman of the board, the reorganization process is taking longer than expected but in the meantime the company is strengthening corporate structure, completing asset dispositions, and cleaning up their balance sheets.

-Death Care Business Advisor, September 2001

Two-for-One Stock Split On August 7, 2001, Matthews International Corporation declared a two-for-one stock split on its Class A and Class B common stock. This stock distribution gives shareholders one new share of Class A common stock for each share of outstanding A common stock and one share of Class B common stock for each share of outstanding Class B common stock.
-CFSA Newsletter, September 2001

York Shareholders in Favor of Merger Over 99% of votes cast by shareholders were in favor of the merger between the York Group and Matthews International Corporation. According to the merger agreement, the share price will be \$10. However, based on excess cash remaining on York's balance sheet as of Oct. 31, 2001, Matthews agreed to pay an extra \$1 per share.
-CFSA Newsletter, September 2001

How Long Funeral Home Documents Should Be Retained

Funeral Service Documents

Copies of Death Certificates – 3 years
Price List – 1 year after date of last distribution
State of Funeral Goods and Service Selected – 2 years
from date of arrangements conference

Personnel Records

Wage and Hour Logs – 3 years
Personnel Decisions (Hire/Fire) – 2 years
Payroll Records – 6 years

Accounting Documents

Bank Statement and Deposit Slips – 6 years
Checks – 6 years
Expense Reports – 4 years (after date of tax return is filed)
Monthly Trial Balances – 3 years
Vouchers for Payment to Vendors, Employees, etc. – 3 years
Subsidiary Ledger Including Payables and Receivables – 6 years
Audit Reports and Financial Statements – Permanent
General Ledgers and Journals – Permanent
Tax Returns – Permanent

Insurance Documents

Accident Reports – 6 years
Fire Inspection Reports – 6 years
Group Disability Records – 6 years
Safety Reports – 6 years
Claims (after settlement) – 3 years
Expired Policies – 3 years

OSHA Documents

Formaldehyde Monitoring Records – 30 years
Employee OSHA Training Records – 3 years
Employee Medical Records – 30 years (after last date of employment)

Correspondence

License, Traffic and Purchase – 1 year
General – 3 years
Legal and Tax – 6 years

Corporate Records

Bylaws, Charter and Minute Books – Permanent
Capital Stock and Bond Records – Permanent
Checks Regarding Taxes, Property and Fulfillment of Major Contracts – Permanent
Contract and Agreements – Permanent
Copyright and Trademark Registrations – Permanent
Deeds and Easements – Permanent
Labor Contracts – Permanent
Patents – Permanent
Retirement and Pension Records – Permanent
Tax Returns, Supporting Documents – Permanent
Expired Mortgages, Notes, Leases – 6 years

Other Records

Shipping and Receiving – 1 year
Purchasing and Sales – 7 years

Information furnished by Scott Gilligan, NFDA General Counsel – from *KFDA Journal*, June 2001

PinnacleHealth Hospice Schedules Volunteer Training Applications are now being accepted for individuals interested in providing companionship and support to hospice patients and their families. The training program has been scheduled at PinnacleHealth Hospice (3705 Elmwood Drive, Harrisburg) for three consecutive Tuesdays: Oct. 30, Nov. 6 and Nov. 13 from 10:00 a.m. until 1:00 p.m. For more information, call Lisa Thomas at (717) 671-3700 or 1-800-889-1098.

Charges Brought Against Florida Unlicensed Funeral Operator Anthony Damiano, 33, of South Florida, pleaded no contest to 23 third degree felony charges for selling pre-need funerals without a license. Damiano was ordered to make immediate restitution of \$7,618, in connection with an individual funeral service. He must also make restitution to the state for \$18,500. Terms of his plea include three years probation and one year of house arrest.

-Florida Funeral Director, July/August 2001

SecurChoice™ Insurance Trust Funeral directors and consumers are discovering the benefits of this new program. Many consumers have paid-up insurance policies and want to use them to pay for their funeral expenses. A number of these people also want to qualify for public assistance to pay for nursing home care. By assigning ownership of their policies to PNC Bank, Trustee, they protect the policy death benefit by not having to cash surrender the policy for a lesser amount of money. The pre-need contract is cleaner for the funeral home if policy ownership is assigned to PNC Bank.

SecurChoice™ Pre-need Trust Due to the recent terrorist attacks and market fluctuations, many funeral directors are concerned about their pre-need accounts and personal investments. We have been through volatile market and interest conditions before, but those who have "stayed the course" have benefited from the stability of the SecurChoice™ pre-need trust program. Over the years, the short-term fund has produced average net yields in excess of 4.0% compounded on deposits, which has out-paced inflationary price increases. Other investment options have yielded higher annual returns.

As you know, PFDA benefits directly from the profits and business administrated by the Unichoic Cooperative. Your continued use of the pre-need trust program is vital to the success of PFDA. In addition, Unichoic has paid out more than \$600,000 in dividends to Unichoic™ participants and PFDA members in 1998, 1999 and 2000.

SecurChoice Pre-need Insurance Many funeral directors are now submitting insurance-funded pre-need contracts to Funeral Directors Life Insurance Company (FDLIC). Most funeral directors have chosen the 4.0% compounded growth product over the 4.2% simple interest product. Many have told us the forms are very easy to use and FDLIC is providing them with excellent customer service. The Kentucky and Minnesota funeral director associations have recently endorsed FDLIC. Because FDLIC is owned by funeral directors, they can provide outstanding service to funeral directors.

If you have any questions, please call the Unichoic™ office at 877-468-4824 or 717-545-7335.

CLASSIFIEDS

POSITION AVAILABLE: Pennsylvania licensed funeral director needed, small town atmosphere in northwestern PA. Seeking a full-time position in all areas of the profession, 150 calls, benefits, salary, and apartment available. Please reply to file #104-01.

POSITION AVAILABLE: At-need funeral director with minimum of 5 years experience wanted for firm serving approximately 150 families a year in York County, PA. Please respond to file #105-01.

POSITION AVAILABLE: Supervisor/funeral director wanted for a not too small town funeral home. This is a long-term position in a great central PA environment with excellent schools, diverse entertainment, clean air, recreation and golf. Please respond to file #106-01.

POSITION AVAILABLE: Naples, Florida – Thinking about relocating? Southwest Florida independently owned funeral home has immediate opening for dedicated, responsible, caring Funeral Director/Embalmer. Regularly scheduled hours, benefits and 401K. Call Fuller Funeral Home at 800-941-4434 or fax resume to 941-592-1619.

POSITION AVAILABLE: Independently owned Central PA funeral home seeks funeral director or resident intern to join us. Competitive salary, paid vacation, medical benefits and flexible on call schedule. For more information, contact PFDA file #102-01.

POSITION AVAILABLE: Licensed funeral director wanted to be an administrative assistant to the owner of several small town PA funeral homes. You must be detail orientated, flexible, able to function on your own and have enough experience to be helpful to me. Approximately 70% of your time will be non at-need funeral and non pre-arrangement funeral related. Please reply to file #AA-01.

SERVICE AVAILIABLE: INDEPENDENT AUTOPSIES for any reason by certified pathologists licensed in PA. Immediate Services. 7 Days, 1-800-343-2135 A-MEDI-LEGAL NATIONAL AUTOPSY SERVICE.

PRODUCT AVAILABLE: Casket Shells, Inc., Eynon, PA (near Scranton), approaching its 50th anniversary as premier independent family owned casket manufacturer of a full line of metal caskets, including special sizes, offers its products through leading distributors – funeral supply specialist and service centers – throughout the Commonwealth. Call 1-800-516-3340 for product availability.

SOFTWARE & WEB SITES: Team up with the leading company that specializes in Software and Web sites for Funeral Homes, SRS Computing Solutions. The Software system, starting at \$800 is fully customized, user friendly and available with NO SERVICE FEES. The Web site, starting at \$600 offers original, customized designs that advertise your Funeral Home and provides a service to your families by posting obituaries. For more information, call us at 1-800-797-4861 or visit us at www.srscomputingsolutions.com.

"d"



Pennsylvania Cemetery, Cremation
and Funeral Association

TO: Members, House Professional Licensure Committee

FROM: Sam Saxton, Legislative Chairman
PA Cemetery, Cremation and Funeral Association

RE: Proposed Pre-Need Regulation 16A-4815

DATE: September 25, 2007

On Wednesday, September 26, 2007 the House Professional Licensure Committee is scheduled to consider a package of regulations, which includes a regulation on pre-need funeral services, the aforementioned Regulation 16A-4815.

The Pennsylvania Cemetery, Cremation and Funeral Association **strongly opposes** this regulation, written by the State Board of Funeral Directors, which we believe encroaches on the authority of the PA General Assembly to pass legislation and ignores a *Commonwealth Court* decision on the issue of the nature of pre-need contracts. We have attached a copy of the comments our counsel filed with the Funeral Board on behalf of PCCFA, and ask you to review them prior to Wednesday's meeting. When you read PCCFA counsel's comments you will understand the self-serving nature of these regulations, which are written to benefit funeral directors who oppose pre-need sales.

This regulation is anti-consumer, anti-competitive and would have the effect of abolishing pre-need funeral contracts in favor of sales which take place after death, resulting in the consumer paying more for funeral services.

We urge a vote to disapprove the regulations in question.

Should you have any questions or desire additional information about this regulation please contact PCCFA's Government Relations consultant, Morgan Plant, at 717.386.1012 (cell) or 717.245.0902 (land line).

Thank you for your consideration of this request.



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717-731-1970 Main
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James J. Kutz

jkutz@postschell.com
717-612-6038 Direct

September 24, 2007

Via Hand Delivery

Michelle T. Smey, Board Administrator
State Board of Funeral Directors
Department of State
2601 North Third Street
Harrisburg, PA 17110

**RE: Comments of Pennsylvania Cemetery Cremation & Funeral
Association to Proposed Regulations of State Board of Funeral
Directors Published August 25, 2007 Re: Pre-Need Funeral Contracts**

Dear Ms. Smey:

On Saturday, August 25, 2007, the State Board of Funeral Directors published Notice of Proposed Rulemaking, inviting public comment within 30 days of that publication. Allow this letter to serve as notice that the undersigned represents the Pennsylvania Cemetery Cremation & Funeral Association ("PCCFA"), and the comments that follow have been authorized by that entity and its members, who comprise every aspect of the death-care industry.

As an initial point, PCCFA wishes to go on record as being strongly opposed to the subject Regulations for a host of reasons. Specifically, these proposed Regulations constitute what is now a third attempt by the State Board and the Pennsylvania Funeral Directors Association ("PFDA") to legislate in an area which should be left for the General Assembly and to render nugatory a comprehensive and well-reasoned Commonwealth Court *en banc* decision authored by Judge Dan Pellegrini, wherein he reversed an Adjudication of the State Board of Funeral Directors, with direction that the Board could not declare irrevocable, pre-need agreements revocable at the whim of the customer and/or urging of another funeral director who is simply trying to harass an existing pre-need customer and pirate the business therefrom. See *Bean v. Department of State, State Board of Funeral Directors*, 855 A.2d 148 (Pa. Cmwlth. 2004), appeal denied, 584 Pa. 696, 882 A.2d 479 (2005) (holding that the Board's proffered "rationale" for requiring revocability or transferability is not supportable). Indeed, there is simply no need to detrimentally overhaul an existing pre-need contract scheme which has worked quite well over the last several decades. In other words, there is nothing "broke" whatsoever; there is little or no genuine consumer benefit to be derived by these proposed changes; and if promulgated, the end result will simply be to benefit the funeral director financially and expose pre-need customers, who have made final arrangements, to constant telemarketing and other harassment by those who

Michelle T. Smey, Board Administrator
September 24, 2007
Page 2

currently do not have pre-need business but are willing to attempt to lure existing customers from funeral directors who have lawfully and fairly secured pre-need business.

These Regulations will also effectively gut the good will and value of any funeral business which holds pre-need contracts because the Regulations, as drafted, create a wholly illusory contract to which one of the parties is bound to no obligation and for which no funeral director could ever convey his funeral business with the pre-need asset. Adding insult to injury, these proposed Regulations would wreak havoc with the currently in-place banking institutions who have agreed to serve as the recipient and trustee of these pre-need monies. With respect, no banking institution would likely continue to serve if the entire pre-need trust account could be drained at any point in time, except, of course, as that arrangement exists with PFDA's for-profit affiliate.

Both Governor Directives and existing statutory law make clear that Regulations are not to be proposed and implemented, unless a decision has been made that a "compelling public interest" needs to be advanced. Here, the Board suggests, without any true basis, that the current Regulations must be updated to "conform to existing practices and to provide adequate protection to the consumer of pre-need services in the instance of changed circumstances." First, the Board never identifies what "existing" practice within the industry has done away with legitimate, irrevocable, pre-need agreements under which the funeral director binds himself to certain significant commitments upon the death of the customer. Indeed, the State Board of Funeral Directors has, for the last many years, reviewed and approved for use pre-need agreements which, by their terms, were irrevocable. Query: If the Board was approving these types of agreements, what new fact or change in circumstance has come into play? The simple answer is - this Regulation is simply another one of PFDA's efforts (and I might add, successful efforts) to utilize the State Board to change the law whenever it suits and helps PFDA. Indeed, for years PFDA pre-need agreements contained irrevocability provisions and they were approved for years by the Board. What truly appears to be the catalyst for this "automatic transferability" requirement is to either (a) create the opportunity for PFDA and its members to pirate away customers who have entered into pre-need agreements with individuals not aligned with PFDA, or (b) make pre-need so unattractive that it ceases to exist, thereby enabling the funeral profession to make more money when the at-need arrangements are made during a time of extreme familial grief. PFDA has its own pre-need affiliate; its own for-profit marketing arm; and PFDA, through its use of this Board (comprised entirely of PFDA members as professional members) now weaves its desired end result. It is certainly legitimate for a trade organization to proffer issues and positions to a regulatory agency. However, in this instance, the proposed Regulations reflect another patent example of PFDA's use of the Board to manufacture any financial end result desired by PFDA. Indeed, in the proceeding involving Bean and the State Board (wherein this irrevocability issue was first and finally litigated), PFDA sought intervention from the Board and was granted intervention. Predictably, PFDA lobbied for an Adjudication which would *de facto* void irrevocable agreements and predictably, the Board concluded precisely what PFDA told it to conclude.

The General Assembly knows where and when to impose restrictions on the otherwise existing right of two private parties to contract. For example, in the Future Interment Law, 63 P.S. § 480.1 *et seq.*, which provides a vehicle for the sale of funeral merchandise pre-need, the statute expressly states that, if the purchaser of a pre-need contract for goods or merchandise moves out of state, the holder of the pre-need agreement is entitled to receive the principal amount of money on deposit to the credit of that particular contract. See 63 P.S. § 480.5. Notably, although the Funeral Director Law has been amended several times since the enactment of the Future Interment Law in 1963, the General Assembly has chosen not to enact a statutory provision dealing with irrevocability for funeral director pre-need contracts. That silence by the Legislature strongly reflects that it has chosen not to intrude upon the right of two parties to contract. Yet, the State Board, by attempting to "legislate" these Regulations, seeks that end result. As the mission and authority of a state agency is to interpret law, and not make law, these Regulations must be rejected.

Beyond these concerns, this Regulation, if adopted, will create absurd and prejudicial effects on consumers. For example, the Social Security Administration currently permits a pre-need customer to exempt funds from estate taxes and other attachments if pre-need arrangements are irrevocable by their terms. Inasmuch as these draft Regulations will allow consumers to "undo" contracts they have entered into, they are, by definition, not irrevocable and will be the subject of the evils set forth above.

The following scenario illustrates another absurd result. Assume customer "x" pays \$6,000 for a pre-need contract which guarantees him/her funeral services and merchandise at the time of death. Assume funeral director Smith, aware of this agreement, lobbies the customer to undo that existing contract and, instead, contract with him at a lower price. Under the Board's proposed scenario, the funeral director must turn over the then-existing balance in the account of that customer which, in many instances, will be less than the principal amount paid by reason of investment activity. In other words, the consumer, believing that he or she will get \$6,000, is not necessarily guaranteed that amount. Beyond that, the consumer then needs to enter into a second, new contract with a funeral director who may be far less worthy and law abiding than the original contracting funeral director. Then, to add insult, if the second agreement costs the consumer less, the monies are returned to the consumer, thus exposing those funds to the previous in-place protections of SSI.

Simply stated, proposed Section 13.228 is unnecessary; it is anti-competitive; anti-consumer; it will create uncertainty and confusion for the customer; and it will expose the customer to acts of preying by both in-state and out-of-state hustlers. Importantly, if the contract was secured through unfair marketing practices, the Attorney General can intervene, and common law rescission (or fraud) options exist.

There are a number of ways in which the Board could take appropriate steps, if it had a concern that consumers were entering into irrevocable pre-need agreements while not understanding the commitment. For example, a Regulation could arguably be proffered which requires some

separate disclosure of "irrevocability" to the consumer and its implications. Similar to the Pennsylvania Unfair Trade Practices Act, there could be some three-day right of rescission where applicable. Indeed, even with the sale of hearing aids, the General Assembly builds in a 30-day refund "for any reason" clause. Even a geographical provision, similar to the Future Interment Law might make some sense. There appears to be no other instance where an agreement is wholly rescindable by one party in the area of free enterprise and free market. In fact, even federally regulated banking institutions have the right to penalize a customer who seeks to terminate a Certificate of Deposit contract prematurely. These Regulations give the funeral director every disincentive to meet with customers and allow them to plan the type and form of funeral or other service they choose to commit to. Such end result is not pro-consumer. Rather, the end result will either be the harassment of existing pre-need customers by those who do not have pre-need business, or the beginning of the end of pre-need opportunities for Pennsylvania consumers, given the huge disincentive for legitimate funeral homes to commit resources, services and merchandise, only to have the plug pulled at the whim of the consumer. Judge Pellegrini said it best when he indicated there could be circumstances justifying concern within the Board, but the wholesale opportunity to rescind for any reason is simply not justified.


Another area of significant concern is this Board's effort to render illegal that which has been legal for years. Specifically, the Board now proposes that a funeral director may not have any ownership in any other entity involved in the sale of funeral merchandise or goods, even though the law nowhere prohibits same. It is simply unconstitutional and shocking that this Board, in 2007, would seek to render illegal many, many arrangements which funeral directors and others have put in place, wherein the funeral director has an interest in a corporation or other entity which can lawfully sell funeral goods or merchandise. Indeed, as late as 1999, PFDA (the Board's alter ego and vice versa) was disseminating statewide information and recommendations urging funeral directors to create a separate entity, so that funeral merchandise could be sold and trusted at 70%, consistent with the Future Interment Law. Indeed, PFDA went so far as to create an "Incorporation Kit" for use by the funeral directors within the state. Apparently realizing that its project did not get off the ground, PFDA has now convinced "its" State Board to make illegal that which PFDA recommended just some seven or eight years ago. Law should not be interpreted depending upon the whims of a trade organization and a regulatory board which demonstrates a "captured" status to that trade organization by doing whatever the trade organization wants at that particular point in time!!

In closing, PCCFA regrets the zeal with which it has discussed the proposed Regulations and its concerns for those proposals. However, given the total absence of consumer "need" for these draft Regulations, and given the flip-flop approach of the Board to interpreting the Funeral Director Law, PCCFA believes it appropriate to "shoot straight" and urge this Board to do the honorable thing; *to wit*, withdraw the Regulations as unnecessary, anti-consumer, and protectionist. If the Board wishes to do away with legitimate pre-need contracting, it should seek legislative revision. However, it is not the province of the State Funeral Board to make major policy and business decisions which affect significantly and detrimentally businesses which have been operating within the bounds of law for decades. PCCFA is also fully aware that, on the

Michelle T. Smey, Board Administrator
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Page 5

heels of these proposed Regulations relating to revocability, the death industry will be met with additional anti-competitive Regulations prohibiting agents and employees of funeral homes from effectively communicating with prospective pre-need customers. The linkage between the current Regulations and those which are going to follow, cannot be ignored. The consumer is not benefitted when reasonable and legitimate pre-need is effectively abolished, in lieu of at-need decision-making where the next-of-kin are obviously emotional and frequently subject to decision-making processes which their deceased loved one would not have wanted, or, in the case of these Regulations, directed to be otherwise.

Very truly yours,



James J. Kutz

JJK:dlh



September 25, 2007

Hon. Thomas F. Yewcic
300 Irvis Office Building
P.O. Box 202072
Harrisburg, PA 17120-2072

RE: Proposed Pre-Need Regulation #16A (Pre-Need Funeral Arrangements)

Dear Representative Yewcic:

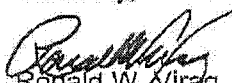
I am writing to you regarding your position as a member of the House Professional Licensure Committee. More specifically, I want to weigh in relative to the regulation proposed by the State Board of Funeral Directors (SBFD) on which your committee will be voting tomorrow. In this regard, I strongly urge you to take a stand against Proposed Pre-Need Regulation #16A (Pre-Need Funeral Arrangements).

I have reviewed the proposed regulation and I feel strongly that it ignores, and attempts to establish rules that are contrary to, a recent decision by the Commonwealth Court against the SBFD whose appeal was also denied. Having lost convincingly in that venue, the SBFD is now attempting, as it has in the past, to circumvent the court's interpretation of the law by enacting regulations that are both anti-consumer and unconstitutional.

AmeriServ Trust and Financial Services Company has numerous business relationships with funeral directors from across the Commonwealth and the proposed regulation would have a negative impact on the pre-need segment of that business. For this reason I plan to circulate information relative to this matter to each of AmeriServ's over 400 employees, most of whom reside and have deep roots in this area.

I trust you will adhere to the provisions of your oath wherein you pledged to uphold the laws of the Commonwealth of Pennsylvania. The Commonwealth Court correctly interpreted the law of this fine Commonwealth when it ruled against the SBFD and as our Representative I ask you to support that decision and the law that it had interpreted by voting against the proposed regulation in committee tomorrow.

Sincerely,


Ronald W. Virag
President and CEO

"F"



Jan B. Jefferson
Supervisor

301 Curry Hollow Road • Pittsburgh, Pennsylvania 15236 • 412/655-4501

September 20, 2007

Michelle T. Smey, Administrative Officer
State Board of Funeral Directors
P.O. Box 2649
Harrisburg, Pa. 17105-2649

RE: Proposed Rule Making Regulation ID #16A-4815 (#2627).
State Board of Funeral Directors [49 PA. Code Ch. 13] Preneed Funeral Arrangements

Via Email: mmsmey@state.pa.us and st-funeral@state.pa.us

Dear Mrs. Smey,

I am a third generation death care provider. My family owns and operates one of the largest funeral homes in Pittsburgh. I have, for more than two years, provided input to this Board regarding these preneed regulations. I attended the public work session regarding these regulations, participated in the Board committee meeting, written comment letters and have been a frequent attendee at the monthly board meetings. I have watched this Board press ahead with its "agenda" without any documented or compelling need to issue these regulations. Further these proposed regulations exceed the statutory authority granted by the legislature in the Funeral Director Law. And these proposed regulations clearly violate the Federal Court Walker decision¹ as well as the Commonwealth Court Bean decision². Over the many years I have observed this Board I have concluded that they are dead set on drafting regulations that restrict competition, restrict free communication of honest information, and establish a monopoly in the death care industry for licensed funeral directors. The end result will do nothing but hurt Pennsylvania consumers by driving up prices as alternate vendors are driven from the market by this Boards actions and regulations. In my opinion this Board is perhaps the most reactionary funeral licensing board in the United States and the expensive renegade among all the boards BPOA oversees. It takes little effort to see the partisanship of this Board when one of the "independent consumer members" was previously the legal council for the trade association The Pennsylvania Funeral Directors Association

¹ United States District Court for the Middle District of Pennsylvania in the matter captioned Michael Walker, et al. v. Jodi Flitton, et al., No. 4: CV-01-02252

² Commonwealth court of Pennsylvania in the matter captioned Kevin M. Bean v. Department of State, state Board of Funeral Directors No. 1088C.D.2003

(PFDA). It was this member who spoke the loudest and the longest pressing for approval of these regulations.

In the section titled "Input from the Regulated Community the Board states" that it has solicited the opinions from funeral directors and organizations. However the input they have received has fallen on deaf ears. During a public work session the over whelming majority of participants, both in writing and/or in testimony, urged rejection or substantive and significant revision to the proposed regulations. Later I and others were invited to participate in a two component board meeting reviewing the proposed regulations. After those two meetings some amendments were made in the second draft of the regulations. Yet in the May 2007 meeting the Board has jettisoned all the work and input by the participants by voting a third draft and current draft of the regulations. This third draft is essentially fraught with the same series of problems as the initial draft they started with two years ago. The end result is that the regulated community has been ignored.

In the "Background and Need for the Amendment" the board summarizes that it has ***"determined that the regulations need to be updated to conform to existing practices in the funeral industry"***. I cannot imagine what the board is referring too. These proposed regulations do not "conform" to any existing practices and in reality force the industry to reverse 50 years of progress. The end result of these proposed regulations will force the industry to offer fewer consumer choices because of the unnecessary restrictions they impose on the funeral provider.

- For example: the proposed definition of a Preneed Funeral Contract makes a "contract" out of a non-binding wish list. As you may know many consumers make their future wishes known to a funeral provider without paying for their funeral. The industry commonly refers to this as a "wish list". There is no offer or consideration so a wish list is not a contract. It is not binding on the consumer or the funeral establishment. Regardless of contract law this proposed regulation defines this as a contract ***"whether or not the funeral entity receives preneed funeral funds."*** This exceeds the statutory authority granted in 13 (c) which clearly requires money to change hands for a contract to be executed.
- The proposed Preneed Funeral Funds definition is confusing if not treacherous to a funeral provider. In (i) it states that preneed funds are funds provided to the funeral ***provider "whether or not a contract to provide specified funeral services or merchandise exists."*** Yet the proposed 13.227 (a) requires all contracts to be in writing.
- The proposed definitions in (iii) include assignment of an insurance policy. However (iv) excludes any premium paid to an insurance company. This proposal does not discuss whether the assignment is revocable or irrevocable.

Obviously a revocable assignment can be rescinded at any time. Even with an irrevocable assignment of an insurance policy the funeral provider does not have the money, has no control of the money and will not receive the money until the death occurs (assuming and providing the policy is in enforce at the time of death).

- This proposal, contrary to industry practice and current regulations, wants this insurance assignment of a pre-existing policy reported as a contract ***“whether or not a contract to provide specified funeral services or merchandise exists”*** and the ***“premiums (are) paid directly to an insurance company”***. There is no possible reason for such convoluted regulatory logic. And such a regulation exposes the funeral provider to the extreme risk of prosecutorial misconduct.

The single issue the Board got right in their “Background and Need for the Amendment” is the fact that ***“reports under 13.224 are time-consuming to prepare and to review. However, the reports provide little value to the board, the regulated community or the public.”*** The basis of adherence with all laws in our country is VOLUNTARY COMPLIANCE. Honest individuals and businesses comply with laws; the dishonest do not. No amount of government paperwork sent to a regulatory agency will stop someone who wishes to intentionally defraud the consumer. Business keeps records so that they can honor their contracts and serve their customers. Regulatory agencies often specify record retention periods for enforcement reasons. These reports, even if the board has time and manpower to really review them (by their own admission they do not), will not prevent one potential problem. Therefore they are nothing but an unnecessary and expensive burden on Pennsylvania funeral businesses that has no effect other than to raise the cost to Commonwealth consumers.

- The current regulations allow 90 days to report each preneed. Though this is a burdensome requirement the proposed requirement is even more so. The proposed regulation would require a report every 90 days that has been expanded to ***“include all accounts held by the funeral entity at any time during the reporting period, including those first created during the reporting period and those closed during the period.”*** In addition the report shall include ***“The account balance at the beginning of the period, the total principal amounts added, interest or other earnings, disbursements or other transfers out and balance at the end of the period.”*** For any long established firm with hundreds or thousands of preneeds on file this is a massive report. The cost of updating this report for submission 4 times a year will be enormous. The cost of this unnecessarily burdensome report will be passed along to the consumer in the form of higher funeral costs.
- To require the deposit into escrow or transfer within 10 days is a requirement that is out of touch with the way business accounting is done in our computerized world. Firms small and large run monthly closeouts of the firm (not daily each time an individual contract is consummated). When the monthly closeout is complete, which usually takes a week, the amount due the escrow is calculated.

Then the escrow is paid. To update the regulations to conform to existing practices, as the Board stated it desired to do, this regulation should allow 45-60 days to deposit into the escrow account not 10 days. To comply with this regulation firms would be required to perform a closeout each time a contract is written or revert to manual accounting requiring repeated computer journal entries for each contract. From a practical point of view this is archaic.

The reasonable and necessary current regulation 13.226 (c) requires that upon sale or transfer of a business the new licensee-transferee notify the board of his/her willingness to accept responsibility for completion of the preneeds on account. This reasonable requirement is to be replaced with the unreasonable 13.229 requiring the new owner to notify each customer of the change of ownership and to give that customer up to 90 days to transfer their preneed to another funeral home. This is just another example of this board exceeding its statutory authority and heaping onerous and expensive requirements on licensee's whose cost ultimately gets passed on to Commonwealth consumers.

- This proposed regulation violates established contract law by invalidating the established contracts so that they can be transferred.
- The reality is that, unless it is an irrevocable contract (in which case this regulation violates the Bean decision) a consumer can move their preneed funds at the time of delivery to any funeral provider they wish. Transfers happen infrequently but they do occur. A reputable firm will not force a family to use them if the family does not want too. The Board has documented no case where this has been an issue requiring additional regulation.
- In addition this regulation would do great and unnecessary harm to the licensee it regulates. When a funeral director wishes to retire and potential purchasers value his business the number of preneed contracts on file is a tremendous plus in raising the value of the business. This proposed regulation invalidates those contracts and lowers the value of the business.

The "limitations on preneed funeral contracts" created in 13.227 clearly exceed the statutory authority granted by the law and unreasonably restrict the licensees constitutional right to operate legally under other existing laws. Yet this onerous proposal does nothing to protect the consumer. These regulations would, however, remove alternative vendors from the market, thereby reducing consumer choice and increasing consumer funeral costs.

- There are a number of legally established 3rd party companies selling death care merchandise (caskets, burial vaults, grave markers, cremation urns etc.). These 3rd party sellers are regulated by the Future Interment Act (63 P.S. 480). A few of

these firms have been established by funeral directors. There is nothing illegal or immoral about this as long as the respective laws are followed by the entity making the sale.

- This board has not shown even one instance of harm to a consumer who purchased their merchandise from a 3rd party seller rather than a traditional funeral provider.

The transferability of a funeral contract proposed in 13.228 means that any contract written is a binding contract on the funeral provider but not upon the consumer. This proposal will restrict the consumer's choices because few funeral firms will wish to offer guarantee preneed contracts when they cannot be assured their contract is enforceable on the purchaser. This proposed regulation certainly exceeds the statutory authority and attempt to circumnavigate contract law and the Bean decision with regulation.

- This board somehow overlooks the issue that preneed contracts are price guaranteed by the selling funeral firm. If the consumer transfers his/her preneed to another firm, the new firm will not guarantee to perform the funeral for the same price as the original contract- generally written years ago. If transferability is to be truly beneficial to the consumer the regulation **MUST** require the receiving funeral establishment assume the entire contract as it was originally written (at the original price) and perform the funeral at no additional cost other than what has been trusted (As costs and prices have no doubt increased since the contract was originally written, it is doubtful any funeral home, not even mine, would do that).
- This board also overlooks the fact that the funds and markets these preneed funds are invested in go up and down. For example: If a \$5000 preneed funeral was trusted and the market contracted 10% there would only \$4,500 in the trust account. Yet if the death should occur the selling funeral home is obligated to deliver the funeral at the contracted price. Under the proposed regulations if the family chooses to move their money then the receiving funeral director would receive \$4500.
- These proposed regulations seem to indicate that using a master trust would no longer be approved since everything must be trusted individually. The end result of this is consumers choices will become limited as funeral firms choose not to offer preneed because of the risks created by this regulation.

In summary these regulations should not be passed. The Board has shown no documented consumer harm caused by current industry conduct requiring it to promulgate such draconian regulations. The proposed regulations exceed the statutory authority granted under the funeral director law. And these regulations violate many of the tenants set forth in the recent court rulings of Walker and Bean.

I urge you to disapprove these proposed regulations by the State Board of Funeral Directors.

Respectfully submitted,

Harry C. Neel
President

"9"



HEFFNER

Funeral Chapel & Crematory, Inc.

PHONE 717-767-1551
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Toll Free 888-767-1551
C. Frederick Koller, Supervisor
Ernie Heffner, President
John Katora, Vice-President
Scott Mahkovec, CPA, Contoller

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Schlitzer-Allen-Pugh

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Vickery

MILL HALL
Helt Chapel

RENOVO
Maxwell

WILLIAMSPORT
Allen & Redmond

WILKES-BARRE
Kniffen O'Malley

AVOCA
Kniffen O'Malley

MILTON
Ranck

ADVANCE PLANNING
Preneed Associates, Inc.

NEW YORK STATE AFFILIATE

WELLSBURG
Roberts

September 24th, 2007

Michelle T. Smey, Administrative Officer
State Board of Funeral Directors
P.O. Box 2649
Harrisburg, PA 17105-2649

Submitted Via Email To: st-funeral@state.pa.us , msmey@state.pa.us , hweirich@state.pa.us

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 24th, 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.

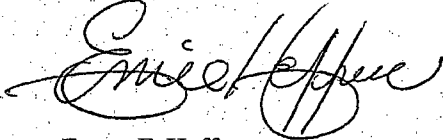
This board's demonstrated disregard for higher authority has a track record whether that authority is a Commonwealth Court *en banc* decision, a Federal Court order or directives from the Governor's Office. In fact, the disregard is so blatant as to be documented in official minutes of the funeral board 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



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James J. Kutz

jkutz@postschell.com
717-612-6038 Direct

September 24, 2007

Via Hand Delivery

Michelle T. Smey, Board Administrator
State Board of Funeral Directors
Department of State
2601 North Third Street
Harrisburg, PA 17110

RE: Comments of Pennsylvania Cemetery Cremation & Funeral Association to Proposed Regulations of State Board of Funeral Directors Published August 25, 2007 Re: Pre-Need Funeral Contracts

Dear Ms. Smey:

On Saturday, August 25, 2007, the State Board of Funeral Directors published Notice of Proposed Rulemaking, inviting public comment within 30 days of that publication. Allow this letter to serve as notice that the undersigned represents the Pennsylvania Cemetery Cremation & Funeral Association ("PCCFA"), and the comments that follow have been authorized by that entity and its members, who comprise every aspect of the death-care industry.

As an initial point, PCCFA wishes to go on record as being strongly opposed to the subject Regulations for a host of reasons. Specifically, these proposed Regulations constitute what is now a third attempt by the State Board and the Pennsylvania Funeral Directors Association ("PFDA") to legislate in an area which should be left for the General Assembly and to render nugatory a comprehensive and well-reasoned Commonwealth Court *en banc* decision authored by Judge Dan Pellegrini, wherein he reversed an Adjudication of the State Board of Funeral Directors, with direction that the Board could not declare irrevocable, pre-need agreements revocable at the whim of the customer and/or urging of another funeral director who is simply trying to harass an existing pre-need customer and pirate the business therefrom. See *Bean v. Department of State, State Board of Funeral Directors*, 855 A.2d 148 (Pa. Cmwlth. 2004), appeal denied, 584 Pa. 696, 882 A.2d 479 (2005) (holding that the Board's proffered "rationale" for requiring revocability or transferability is not supportable). Indeed, there is simply no need to detrimentally overhaul an existing pre-need contract scheme which has worked quite well over the last several decades. In other words, there is nothing "broke" whatsoever; there is little or no genuine consumer benefit to be derived by these proposed changes; and if promulgated, the end result will simply be to benefit the funeral director financially and expose pre-need customers, who have made final arrangements, to constant telemarketing and other harassment by those who

currently do not have pre-need business but are willing to attempt to lure existing customers from funeral directors who have lawfully and fairly secured pre-need business.

These Regulations will also effectively gut the good will and value of any funeral business which holds pre-need contracts because the Regulations, as drafted, create a wholly illusory contract to which one of the parties is bound to no obligation and for which no funeral director could ever convey his funeral business with the pre-need asset. Adding insult to injury, these proposed Regulations would wreak havoc with the currently in-place banking institutions who have agreed to serve as the recipient and trustee of these pre-need monies. With respect, no banking institution would likely continue to serve if the entire pre-need trust account could be drained at any point in time, except, of course, as that arrangement exists with PFDA's for-profit affiliate.

Both Governor Directives and existing statutory law make clear that Regulations are not to be proposed and implemented, unless a decision has been made that a "compelling public interest" needs to be advanced. Here, the Board suggests, without any true basis, that the current Regulations must be updated to "conform to existing practices and to provide adequate protection to the consumer of pre-need services in the instance of changed circumstances." First, the Board never identifies what "existing" practice within the industry has done away with legitimate, irrevocable, pre-need agreements under which the funeral director binds himself to certain significant commitments upon the death of the customer. Indeed, the State Board of Funeral Directors has, for the last many years, reviewed and approved for use pre-need agreements which, by their terms, were irrevocable. Query: If the Board was approving these types of agreements, what new fact or change in circumstance has come into play? The simple answer is - this Regulation is simply another one of PFDA's efforts (and I might add, successful efforts) to utilize the State Board to change the law whenever it suits and helps PFDA. Indeed, for years PFDA pre-need agreements contained irrevocability provisions and they were approved for years by the Board. What truly appears to be the catalyst for this "automatic transferability" requirement is to either (a) create the opportunity for PFDA and its members to pirate away customers who have entered into pre-need agreements with individuals not aligned with PFDA, or (b) make pre-need so unattractive that it ceases to exist, thereby enabling the funeral profession to make more money when the at-need arrangements are made during a time of extreme familial grief. PFDA has its own pre-need affiliate; its own for-profit marketing arm; and PFDA, through its use of this Board (comprised entirely of PFDA members as professional members) now weaves its desired end result. It is certainly legitimate for a trade organization to proffer issues and positions to a regulatory agency. However, in this instance, the proposed Regulations reflect another patent example of PFDA's use of the Board to manufacture any financial end result desired by PFDA. Indeed, in the proceeding involving Bean and the State Board (wherein this irrevocability issue was first and finally litigated), PFDA sought intervention from the Board and was granted intervention. Predictably, PFDA lobbied for an Adjudication which would *defacto* void irrevocable agreements and predictably, the Board concluded precisely what PFDA told it to conclude.

The General Assembly knows where and when to impose restrictions on the otherwise existing right of two private parties to contract. For example, in the Future Interment Law, 63 P.S. § 480.1 *et seq.*, which provides a vehicle for the sale of funeral merchandise pre-need, the statute expressly states that, if the purchaser of a pre-need contract for goods or merchandise moves out of state, the holder of the pre-need agreement is entitled to receive the principal amount of money on deposit to the credit of that particular contract. See 63 P.S. § 480.5. Notably, although the Funeral Director Law has been amended several times since the enactment of the Future Interment Law in 1963, the General Assembly has chosen not to enact a statutory provision dealing with irrevocability for funeral director pre-need contracts. That silence by the Legislature strongly reflects that it has chosen not to intrude upon the right of two parties to contract. Yet, the State Board, by attempting to "legislate" these Regulations, seeks that end result. As the mission and authority of a state agency is to interpret law, and not make law, these Regulations must be rejected.

Beyond these concerns, this Regulation, if adopted, will create absurd and prejudicial effects on consumers. For example, the Social Security Administration currently permits a pre-need customer to exempt funds from estate taxes and other attachments if pre-need arrangements are irrevocable by their terms. Inasmuch as these draft Regulations will allow consumers to "undo" contracts they have entered into, they are, by definition, not irrevocable and will be the subject of the evils set forth above.

The following scenario illustrates another absurd result. Assume customer "x" pays \$6,000 for a pre-need contract which guarantees him/her funeral services and merchandise at the time of death. Assume funeral director Smith, aware of this agreement, lobbies the customer to undo that existing contract and, instead, contract with him at a lower price. Under the Board's proposed scenario, the funeral director must turn over the then-existing balance in the account of that customer which, in many instances, will be less than the principal amount paid by reason of investment activity. In other words, the consumer, believing that he or she will get \$6,000, is not necessarily guaranteed that amount. Beyond that, the consumer then needs to enter into a second, new contract with a funeral director who may be far less worthy and law abiding than the original contracting funeral director. Then, to add insult, if the second agreement costs the consumer less, the monies are returned to the consumer, thus exposing those funds to the previous in-place protections of SSI.

Simply stated, proposed Section 13.228 is unnecessary; it is anti-competitive; anti-consumer; it will create uncertainty and confusion for the customer; and it will expose the customer to acts of preying by both in-state and out-of-state hustlers. Importantly, if the contract was secured through unfair marketing practices, the Attorney General can intervene, and common law rescission (or fraud) options exist.

There are a number of ways in which the Board could take appropriate steps, if it had a concern that consumers were entering into irrevocable pre-need agreements while not understanding the commitment. For example, a Regulation could arguably be proffered which requires some

separate disclosure of "irrevocability" to the consumer and its implications. Similar to the Pennsylvania Unfair Trade Practices Act, there could be some three-day right of rescission where applicable. Indeed, even with the sale of hearing aids, the General Assembly builds in a 30-day refund "for any reason" clause. Even a geographical provision, similar to the Future Interment Law might make some sense. There appears to be no other instance where an agreement is wholly rescindable by one party in the area of free enterprise and free market. In fact, even federally regulated banking institutions have the right to penalize a customer who seeks to terminate a Certificate of Deposit contract prematurely. These Regulations give the funeral director every disincentive to meet with customers and allow them to plan the type and form of funeral or other service they choose to commit to. Such end result is not pro-consumer. Rather, the end result will either be the harassment of existing pre-need customers by those who do not have pre-need business, or the beginning of the end of pre-need opportunities for Pennsylvania consumers, given the huge disincentive for legitimate funeral homes to commit resources, services and merchandise, only to have the plug pulled at the whim of the consumer. Judge Pellegrini said it best when he indicated there could be circumstances justifying concern within the Board, but the wholesale opportunity to rescind for any reason is simply not justified.

Another area of significant concern is this Board's effort to render illegal that which has been legal for years. Specifically, the Board now proposes that a funeral director may not have any ownership in any other entity involved in the sale of funeral merchandise or goods, even though the law nowhere prohibits same. It is simply unconstitutional and shocking that this Board, in 2007, would seek to render illegal many, many arrangements which funeral directors and others have put in place, wherein the funeral director has an interest in a corporation or other entity which can lawfully sell funeral goods or merchandise. Indeed, as late as 1999, PFDA (the Board's alter ego and vice versa) was disseminating statewide information and recommendations urging funeral directors to create a separate entity, so that funeral merchandise could be sold and trusted at 70%, consistent with the Future Interment Law. Indeed, PFDA went so far as to create an "Incorporation Kit" for use by the funeral directors within the state. Apparently realizing that its project did not get off the ground, PFDA has now convinced "its" State Board to make illegal that which PFDA recommended just some seven or eight years ago. Law should not be interpreted depending upon the whims of a trade organization and a regulatory board which demonstrates a "captured" status to that trade organization by doing whatever the trade organization wants at that particular point in time!!

In closing, PCCFA regrets the zeal with which it has discussed the proposed Regulations and its concerns for those proposals. However, given the total absence of consumer "need" for these draft Regulations, and given the flip-flop approach of the Board to interpreting the Funeral Director Law, PCCFA believes it appropriate to "shoot straight" and urge this Board to do the honorable thing; *to wit*, withdraw the Regulations as unnecessary, anti-consumer, and protectionist. If the Board wishes to do away with legitimate pre-need contracting, it should seek legislative revision. However, it is not the province of the State Funeral Board to make major policy and business decisions which affect significantly and detrimentally businesses which have been operating within the bounds of law for decades. PCCFA is also fully aware that, on the

Michelle T. Smey, Board Administrator
September 24, 2007
Page 5

heels of these proposed Regulations relating to revocability, the death industry will be met with additional anti-competitive Regulations prohibiting agents and employees of funeral homes from effectively communicating with prospective pre-need customers. The linkage between the current Regulations and those which are going to follow, cannot be ignored. The consumer is not benefitted when reasonable and legitimate pre-need is effectively abolished, in lieu of at-need decision-making where the next-of-kin are obviously emotional and frequently subject to decision-making processes which their deceased loved one would not have wanted, or, in the case of these Regulations, directed to be otherwise.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jim Kutz", written over a printed name.

James J. Kutz

JJK:dlh

2949008714026

Form 990

Return of Organization Exempt from Income Tax

OMB No. 1545-0047

2003

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

Open to Public Inspection

Department of the Treasury Internal Revenue Service

The organization may have to use a copy of this return to satisfy state reporting requirements.

A For the 2003 calendar year, or tax year beginning 2003, and ending

- B Check if applicable: Address change, Name change, Initial return, Final return, Amended return, Application pending

PA FUNERAL DIRECTORS ASSOCIATION
7441 ALLENTOWN BLVD.
HARRISBURG, PA 17112

D Employer identification number 23-0607055
E Telephone number
F Accounting method: [X] Cash [] Accrual [] Other (specify)

Section 501(c)(3) organizations and 4947(a)(1) nonexempt charitable trusts must attach a completed Schedule A (Form 990 or 990-EZ).

- H (a) Is this a group return for affiliates? [] Yes [X] No
H (b) If 'Yes,' enter number of affiliates
H (c) Are all affiliates included? [] Yes [] No
H (d) Is this a separate return filed by an organization covered by a group ruling? [] Yes [X] No

G Web site: N/A

J Organization type (check only one) [X] 501(c) 6 (insert no.) [] 4947(a)(1) or [] 527

K Check here [] if the organization's gross receipts are normally not more than \$25,000. The organization need not file a return with the IRS; but if the organization received a Form 990 Package in the mail, it should file a return without financial data. Some states require a complete return.

I Group Exemption Number
M Check [X] if the organization is not required to attach Schedule B (Form 990, 990-EZ, or 990-PF).

L Gross receipts: Add lines 6b, 8b, 9b, and 10b to line 12. 592,411.

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See Instructions)

Table with 21 rows and 4 columns: Description, (A) Securities, (B) Other, Total. Includes revenue from contributions, program services, and expenses.

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Statement of Functional Expenses. All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations and section 4947(a)(1) nonexempt charitable trusts but optional for others.

not include amounts reported on line 6b, 8b, 9b, 10b, or 16 of Part I.		(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
Grants and allocations (att sch) (cash) \$					
non-cash \$	22				
23 Specific assistance to individuals (att sch)	23				
24 Benefits paid to or for members (att sch)	24				
25 Compensation of officers, directors, etc	25				
26 Other salaries and wages	26				
27 Pension plan contributions	27				
28 Other employee benefits	28				
29 Payroll taxes	29				
30 Professional fundraising fees	30				
31 Accounting fees	31				
32 Legal fees	32	38,015.			
33 Supplies	33	9,030.			
34 Telephones	34	1,813.			
35 Postage and shipping	35				
36 Occupancy	36	3,427.			
37 Equipment rental and maintenance	37	18,511.			
38 Printing and publications	38	25,630.			
39 Travel	39				
40 Conferences, conventions, and meetings	40	120,247.			
41 Interest	41	7,706.			
42 Depreciation, depletion, etc (attach schedule)	42	9,846.			
43 Other expenses not covered above (itemize):					
a SEE STATEMENT 1	43 a	334,546.			
b	43 b				
c	43 c				
d	43 d				
e	43 e				
44 Total functional expenses (add lines 22 - 43). Organizations completing columns (B) - (D), carry these totals to lines 13 - 15.	44	568,771.			

Joint Costs. Check if you are following SOP 98-2.

Are any joint costs from a combined educational campaign and fundraising solicitation reported in (B) Program services? N/A Yes No
 If 'Yes,' enter (i) the aggregate amount of these joint costs \$ _____; (ii) the amount allocated to Program services \$ _____; (iii) the amount allocated to Management and general \$ _____; and (iv) the amount allocated to Fundraising \$ _____

Part III Statement of Program Service Accomplishments

What is the organization's primary exempt purpose? SEE STATEMENT 2

All organizations must describe their exempt purpose achievements in a clear and concise manner. State the number of clients served, publications issued, etc. Discuss achievements that are not measurable. (Section 501(c)(3) & (4) organizations and 4947(a)(1) nonexempt charitable trusts must also enter the amount of grants & allocations to others.)

Program Service Expenses (Required for 501(c)(3) and (4) organizations and 4947(a)(1) trusts; but optional for others.)

a	ACTIVITIES INCLUDE PROMOTION OF THE INDUSTRY AND EDUCATION OF MEMBERSHIP AND THE PUBLIC THROUGH ANNUAL CONVENTIONS, PUBLICATIONS AND PUBLIC AWARENESS (Grants and allocations \$ _____)	
b	_____ (Grants and allocations \$ _____)	
c	_____ (Grants and allocations \$ _____)	
d	_____ (Grants and allocations \$ _____)	
e	Other program services (Grants and allocations \$ _____)	
f	Total of Program Service Expenses (should equal line 44, column (B), Program services)	

IV. Balance Sheets (See Instructions)

Note: Where required, attached schedules and amounts within the description column should be for end-of-year amounts only.

		(A) Beginning of year	(B) End of year
45 Cash - non-interest-bearing.....			45
46 Savings and temporary cash investments.....		289,903.	46 221,898.
47a	Accounts receivable.....		47a
	b Less: allowance for doubtful accounts.....		47b 47c
48a	Pledges receivable.....		48a
	b Less: allowance for doubtful accounts.....		48b 48c
49 Grants receivable.....			49
50 Receivables from officers, directors, trustees, and key employees (attach schedule).....			50
51a	Other notes & loans receivable (attach sch.).....		51a
	b Less: allowance for doubtful accounts.....		51b 51c
52 Inventories for sale or use.....			52
53 Prepaid expenses and deferred charges.....			53 100.
54 Investments - securities (attach schedule)..... <input type="checkbox"/> Cost <input type="checkbox"/> FMV			54
55a	Investments - land, buildings, & equipment: basis.....		55a 956,097.
	b Less: accumulated depreciation (attach schedule)..... STATEMENT 3	453,006.	55b 506,417. 55c 503,091.
56 Investments - other (attach schedule).....			56
57a	Land, buildings, and equipment: basis.....		57a
	b Less: accumulated depreciation (attach schedule).....		57b 57c
58 Other assets (describe >.....)			58
59 Total assets (add lines 45 through 58) (must equal line 74).....		796,320.	59 725,089.
60 Accounts payable and accrued expenses.....			60
61 Grants payable.....			61
62 Deferred revenue.....			62
63 Loans from officers, directors, trustees, and key employees (attach schedule).....			63
64a	Tax-exempt bond liabilities (attach schedule).....		64a
	b Mortgages and other notes payable (attach schedule)..... SEE STATEMENT 4	92,186.	64b 83,958.
65 Other liabilities (describe > SEE STATEMENT 5.....)		50,508.	65 44,173.
66 Total liabilities (add lines 60 through 65).....		142,694.	66 128,131.
Organizations that follow SFAS 117, check here <input checked="" type="checkbox"/> and complete lines 67 through 69 and lines 73 and 74.			
67 Unrestricted.....		612,441.	67 576,273.
68 Temporarily restricted.....		41,185.	68 20,685.
69 Permanently restricted.....			69
Organizations that do not follow SFAS 117, check here <input type="checkbox"/> and complete lines 70 through 74.			
70 Capital stock, trust principal, or current funds.....			70
71 Paid-in or capital surplus, or land, building, and equipment fund.....			71
72 Retained earnings, endowment, accumulated income, or other funds.....			72
73 Total net assets or fund balances (add lines 67 through 69 or lines 70 through 72; column (A) must equal line 19; column (B) must equal line 21).....		653,626.	73 596,958.
74 Total liabilities and net assets/fund balances (add lines 66 and 73).....		796,320.	74 725,089.

Form 990 is available for public inspection and, for some people, serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes, in Part III, the organization's programs and accomplishments.

BAA

Part IV-A Reconciliation of Revenue per Audited Financial Statements with Revenue per Return (See instructions.)		Part IV-B Reconciliation of Expenses per Audited Financial Statements with Expenses per Return	
Total revenue, gains, and other support per audited financial statements.....	a 592,411.	a Total expenses and losses per audited financial statements.....	a 649,079.
b Amounts included on line a but not on line 12, Form 990:		b Amounts included on line a but not on line 17, Form 990:	
(1) Net unrealized gains on grants..... \$		(1) Donated services and use of facilities..... \$	
(2) Donated services and use of facilities..... \$		(2) Prior year adjustments reported on line 20, Form 990... \$	
(3) Recoveries of prior year grants..... \$		(3) Losses reported on line 20, Form 990... \$	
(4) Other (specify):		(4) Other (specify):	
SEE STM 6 \$ 80,308.		SEE STMT 7 \$ 80,308.	
Add amounts on lines (1) through (4).....	b 80,308.	Add amounts on lines (1) through (4).....	b 80,308.
c Line a minus line b.....	c 512,103.	c Line a minus line b.....	c 568,771.
d Amounts included on line 12, Form 990 but not on line a:		d Amounts included on line 17, Form 990 but not on line a:	
(1) Investment expenses not included on line 6b, Form 990..... \$		(1) Investment expenses not included on line 6b, Form 990..... \$	
(2) Other (specify):		(2) Other (specify):	
----- \$		----- \$	
Add amounts on lines (1) and (2)...	d	Add amounts on lines (1) and (2)...	d
e Total revenue per line 12, Form 990 (line c plus line d).....	e 512,103.	e Total expenses per line 17, Form 990 (line c plus line d).....	e 568,771.

Part V List of Officers, Directors, Trustees, and Key Employees (List each one even if not compensated; see instructions.)

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (if not paid, enter -0-)	(D) Contributions to employee benefit plans and deferred compensation	(E) Expense account and other allowances
DAVID J MASON HOLLIDAYSBURG, PA 16648	PAST PRESIDENT 1	0.	0.	0.
JOHN W. EIRKSON 7441 ALLENTOWN BLVD. HARRISBURG, PA 17112	EXECUTIVE DIREC 40	0.	0.	0.
DEAN WETZLER MILL HALL, PA 17751	SECRETARY 1	0.	0.	0.
SAM CUMMINGS, JR. KANE, PA 16735	PRESIDENT ELECT 1	0.	0.	0.
JOSEPH A. TOMON, JR. EILWOOD CITY, PA 16117	PRESIDENT 1	0.	0.	0.

75 Did any officer, director, trustee, or key employee receive aggregate compensation of more than \$100,000 from your organization and all related organizations, of which more than \$10,000 was provided by the related organizations? SEE STATEMENT B Yes No
If 'Yes,' attach schedule - see instructions.

VI Other Information (See instructions.)

		Yes	No
76	Did the organization engage in any activity not previously reported to the IRS? If 'Yes,' attach a detailed description of each activity.		X
77	Were any changes made in the organizing or governing documents but not reported to the IRS? If 'Yes,' attach a conformed copy of the changes.		X
78a	Did the organization have unrelated business gross income of \$1,000 or more during the year covered by this return?	X	
78b	If 'Yes,' has it filed a tax return on Form 990-T for this year?	X	
79	Was there a liquidation, dissolution, termination, or substantial contraction during the year? Attach a statement.		X
80a	Other than by association with a statewide or nationwide organization) through common law, trusts, trustees, officers, etc., to any other exempt or nonexempt organization?	X	
b If 'Yes,' enter the name of the organization <u>UNICHOICE COOPERATIVE, INC.</u> and check whether it is <input type="checkbox"/> exempt or <input checked="" type="checkbox"/> nonexempt.			
81a	Enter direct and indirect political expenditures. See line 81 instructions. 81a <u>0.</u>		
81b	Did the organization file Form 1120-POL for this year?		X
82a	Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?		X
b If 'Yes,' you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II. (See instructions in Part III.) 82b <u>N/A</u>			
83a	Did the organization comply with the public inspection requirements for returns and exemption applications?	X	
83b	Did the organization comply with the disclosure requirements relating to quid pro quo contributions?	X	
84a	Did the organization solicit any contributions or gifts that were not tax deductible?		X
b If 'Yes,' did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?			N/A
85a	501(c)(4), (5), or (6) organizations. a Were substantially all dues nondeductible by members?		X
85b	b Did the organization make only in-house lobbying expenditures of \$2,000 or less?		X
If 'Yes' was answered to either 85a or 85b, do not complete 85c through 85h below unless the organization received a waiver for proxy tax owed for the prior year.			
85c	Dues, assessments, and similar amounts from members.		338,748.
85d	Section 162(e) lobbying and political expenditures.		15,278.
85e	Aggregate nondeductible amount of section 6033(e)(1)(A) dues notices.		40,650.
85f	Taxable amount of lobbying and political expenditures (line 85d less 85e).		-25,372.
85g	Does the organization elect to pay the section 6033(e) tax on the amount on line 85f?		N/A
85h	If section 6033(e)(1)(A) dues notices were sent, does the organization agree to add the amount on line 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year?		N/A
86a	501(c)(7) organizations. Enter: a Initiation fees and capital contributions included on line 12.		N/A
86b	b Gross receipts, included on line 12, for public use of club facilities.		N/A
87a	501(c)(12) organizations. Enter: a Gross income from members or shareholders.		N/A
87b	b Gross income from other sources. (Do not net amounts due or paid to other sources against amounts due or received from them.)		N/A
88	At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership, or an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? If 'Yes,' complete Part IX.	X	X
89a	501(c)(3) organizations. Enter: Amount of tax imposed on the organization during the year under: section 4911 <u>N/A</u> ; section 4912 <u>N/A</u> ; section 4955 <u>N/A</u>		
89b	501(c)(3) and 501(c)(4) organizations. Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If 'Yes,' attach a statement explaining each transaction.		N/A
c Enter: Amount of tax imposed on the organization managers or disqualified persons during the year under sections 4912, 4955, and 4958.			N/A
d Enter: Amount of tax on line 89c, above, reimbursed by the organization.			N/A
90a	List the states with which a copy of this return is filed <u>NONE</u>		
90b	Number of employees employed in the pay period that includes March 12, 2003 (See instructions.)		0
91	The books are in care of <u>BOOKKEEPER</u> Telephone number <u>717-545-7215</u> Located at <u>7441 ALLENTOWN BLVD, HBG, PA</u> ZIP + 4 <u>17112</u>		
92	Section 4947(a)(1) nonexempt charitable trusts filing Form 990 in lieu of Form 1041 - Check here <input type="checkbox"/> and enter the amount of tax-exempt interest received or accrued during the tax year. 92 <u>N/A</u>		N/A

Part VII Analysis of Income-Producing Activities (See instructions.)

	Unrelated business income		Excluded by section 512, 513, or 514		(E) Related or exempt function income
	(A) Business code	(B) Amount	(C) Exclusion code	(D) Amount	
93 Program service revenue:					
a PFDA STATE CONVENTION			7	95,573.	
b					
c					
d					
e					
f Medicare/Medicaid payments					
g Fees & contracts from government agencies					
94 Membership dues and assessments					338,748.
95 Interest on savings & temporary cash invmnts			14	1,214.	
96 Dividends & interest from securities					
97 Net rental income or (loss) from real estate:					
a debt-financed property					
b not debt-financed property			16	14,892.	
98 Net rental income or (loss) from pers prop.					
99 Other investment income					
100 Gain or (loss) from sales of assets other than inventory					
101 Net income or (loss) from special events					
102 Gross profit or (loss) from sales of inventory					
103 Other revenue: a					
b ADVERTISING	541800	3,715.			
c MISCELLANEOUS			1	614.	
d ROYALTIES			15	47,303.	
e					
104 Subtotal (add columns (B), (D), and (E))		3,715.		159,596.	338,748.
105 Total (add line 104, columns (B), (D), and (E))					502,059.

Note: Line 105 plus line 1d, Part I, should equal the amount on line 12, Part I.

Part VIII Relationship of Activities to the Accomplishment of Exempt Purposes (See instructions.)

Line No.	Explain how each activity for which income is reported in column (E) of Part VII contributed importantly to the accomplishment of the organization's exempt purposes (other than by providing funds for such purposes).
94	MEMBERSHIP DUES ARE USED TO EDUCATE AND PROMOTE THE FUNERAL SERVICE INDUSTRY ON BEHALF OF THE ASSOCIATION'S MEMBERS

Part IX Information Regarding Taxable Subsidiaries and Disregarded Entities (See instructions.)

(A) Name, address, and EIN of corporation, partnership, or disregarded entity	(B) Percentage of ownership interest	(C) Nature of activities	(D) Total income	(E) End-of-year assets
N/A	%			
	%			
	%			
	%			

Part X Information Regarding Transfers Associated with Personal Benefit Contracts (See instructions.)

- a Did the organization, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract? Yes No
- b Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract? Yes No

Note: If 'Yes' to (b), file Form 8870 and Form 4720 (see instructions).

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Signature of officer: *John D. Miller* Date: _____

Type or print name and title: _____

Paid Preparer's Use Only

Preparer's signature: *Michael J. Mearns CPA* Date: *2-23-04*

Check if self-employed: Preparer's SSN or PTIN (see General Instruction W): P00075073

Firm's name (or yours if self-employed): BOYER & RITTER, CPA'S

EIN: 23-1311005

Address, and ZIP + 4: 211 HOUSE AVENUE, CAMP HILL, PA 17011

Phone no.: (717) 761-7210

PA FUNERAL DIRECTORS ASSOCIATION

23-0607055

STATEMENT 1
FORM 990, PART II, LINE 43
OTHER EXPENSES

	(A) TOTAL	(B) PROGRAM SERVICES	(C) MANAGEMENT & GENERAL	(D) FUNDRAISING
BOARD OF DIRECTOR'S EXPENSE	18,504.			
CONTRIBUTIONS & SCHOLARSHIPS	11,505.			
DUES AND SUBSCRIPTIONS	6,223.			
INSURANCE	1,806.			
MANAGEMENT FEE	234,205.			
MISCELLANEOUS	4,831.			
PROFESSIONAL FEES	38,361.			
SEPTEMBER 11 CRASH	667.			
STAFF EXPENSES	14,094.			
UTILITIES	4,350.			
TOTAL	\$ 334,546.	\$ 0.	\$ 0.	\$ 0.

STATEMENT 2
FORM 990, PART III
ORGANIZATION'S PRIMARY EXEMPT PURPOSE

IMPROVEMENT OF BUSINESS CONDITIONS WITHIN THE FUNERAL SERVICE PROFESSION.

STATEMENT 3
FORM 990, PART IV, LINE 55B
INVESTMENTS - LAND, BUILDINGS, AND EQUIPMENT

CATEGORY	BASIS	ACCUM. DEPREC.	BOOK VALUE
AUTOMOBILES / TRANSPORTATION EQUIPMENT	\$ 29,635.	\$ 29,635.	\$ 0.
FURNITURE AND FIXTURES	291,063.	250,940.	40,123.
BUILDINGS	495,589.	172,431.	323,158.
LAND	139,810.		139,810.
TOTAL	\$ 956,097.	\$ 453,006.	\$ 503,091.

STATEMENT 4
FORM 990, PART IV, LINE 64B
MORTGAGES AND OTHER NOTES PAYABLE

OTHER NOTES PAYABLE

LENDER'S NAME:	UNICHOICE COOPERATIVE, INC.	
DATE OF NOTE:	6/01/2001	
MATURITY DATE:	6/01/2011	
INTEREST RATE:	7.00%	
ORIGINAL AMOUNT:	103,500.	
BALANCE DUE:		\$ 83,958.
TOTAL		\$ 83,958.

STATEMENT 5
FORM 990, PART IV, LINE 65
OTHER LIABILITIES

DUES TO UNICHOICE.....	\$	140.
DUES PAYABLE.....		42,143.
MISCELLANEOUS PAYABLES.....		1,890.
TOTAL	\$	<u>44,173.</u>

STATEMENT 6
FORM 990, PART IV-A, LINE B(4)
OTHER AMOUNTS

RENTAL EXPENSES.....	\$	80,308.
TOTAL	\$	<u>80,308.</u>

STATEMENT 7
FORM 990, PART IV-B, LINE B(4)
OTHER AMOUNTS

RENTAL EXPENSES.....	\$	80,308.
TOTAL	\$	<u>80,308.</u>

STATEMENT 8
FORM 990, PART V, LINE 75
LIST OF OFFICERS, DIRECTORS, TRUSTEES, AND KEY EMPLOYEES

NAME AND RELATED ORGANIZATION	COMPEN- SATION	CONTRIB- TION TO EBP & DC	EXPENSE ACCOUNT OTHER
JOHN W. EIRKSON UNICHOICE COOPERATIVE, INC. 23-2938002	\$ 145,822.	\$ 18,524.	\$ 0.
TOTAL	\$ <u>145,822.</u>	\$ <u>18,524.</u>	\$ <u>0.</u>

18,524
164,346
 =