

Special Report: Fraud in the Funeral Industry

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by John F. Wasik

Editor's Note: The \$9 billion death-care industry is being transformed from a simple agreement with local funeral homes and cemeteries to aggressively marketed plans sold by multinational corporations. Funeral arrangements are now being sold over the phone, through the mail and door to door. At an average cost of \$4,000 to \$6,000, your "final arrangements" are among the most expensive consumer purchases you'll ever make. But there's no need to spend thousands if you have the right information and plan ahead. Although funeral and cemetery professionals are by and large skilled, honest and compassionate, we've uncovered a growing problem in financing funerals. The industry hawks more than 1 million "preneed" contracts a year - to not only lock in your future business, but your money as well. This article is the result of a six-month investigation consisting of more than 250 interviews of federal and state regulators, consumer advocates, funeral directors, cemetery operators and consumers; a 50-state survey; Freedom of Information searches of federal and state records; and price-comparison studies. One reason for this diligence is that the "death-care" industry still profits from the emotional vulnerability of its clientele: Families "at need" (planning a funeral at the time of a death) often pay more than they should because they rarely go outside their areas to compare prices and services. But dignified funerals can be provided at a fair and reasonable cost. We'll show you how, and how to avoid the many pitfalls.

Shirley and Marvin Baker and their neighbors felt an invisible bond when they bought, sight unseen, \$6,000 worth (per couple) of "eternal rest beds" - fiberglass casket shells - and a traditional funeral. They trusted that when their time came, not only would their final arrangements be paid in full, their families would not be burdened with any expenses. Iris Dreibelbeis had a similar belief when she paid \$3,175 in cash for her "preneed" funeral goods soon after her husband died - at the demand of the local funeral home operator. (Usually preneed plans must only be paid in full when you die.) Diana and Amby Johnson

paid \$3,919 for lots, markers and caskets, after being convinced to trade in the vaults they had purchased from the same establishment. Isabelle and Gene Eberle paid \$6,500 for markers and "chapel vaults."

But something went wrong in Clinton, Iowa, a Mississippi River town anchored by a corn processing plant and a riverboat casino. More than 1,500 area residents, including those in the foregoing examples, lost up to \$6,000 each that they had paid for cemetery plots, caskets and services. As just one ripple in the \$50 million wave of outright theft sweeping through the quietest part of the American economy, these Iowans were clearly defrauded. Millions of other consumers across the country may be caught in the same trap.

Most of the preneed victims had originally signed up for burial plots and preneed funeral plans through the Clinton Memorial Funeral Home and Cemetery (now under new, solvent ownership). But when a new wave of salesmen swept through town in the late 1980s and early 1990s to "update" their arrangements, few customers knew what they had bought. The chapel vaults and rest beds - although priced at \$3,000 (and up) apiece - were mainly fiberglass containers, not wood or steel caskets, and were actually worth under \$200, say state regulators. Clinton resident Margaret Strehle said her "lesson in turmoil cost [me] \$4,000" after two waves of salesmen sold her these products.

What all of these customers had in common was advanced age (all were in their 60s and 70s), a desire to plan ahead, and an abiding trust in their local funeral director and cemeterian, whose social status in this aging industrial community was akin to that of a clergyman or doctor.

Trust was more important than money here, or so people believed before John William Gailbreath took over Clinton Memorial. Although Gailbreath is in jail after pleading guilty to theft and faced trial in a civil suit filed by the state, Clintonites don't know what happened to their money. Most will never see their funds again. Some cashed in certificates of deposit from their nest eggs to pay for the fraudulent preneed plans.

Rule - neither directly monitors preneed funding nor direct sales from cemeteries (only funeral homes or home/cemetery combinations are covered).

If you haven't been approached already, you'll hear a lot more about preneed funeral plans. Such plans comprise the most powerful and profitable marketing tool in the "death-care" industry. Preneed is a priority with the corporate funeral-service chains that are buying up small and independent funeral homes from England to America to Australia. Corporate "consolidators" like Service Corporation International (SCI) acquire funeral homes, cemeteries, florist shops and product manufacturers in calculated demographic buying binges-they go where the dying is. Late last spring, SCI bought a competitor (Gibraltar Mausoleum), giving it control over 1,494 funeral homes, 275 cemeteries and 102 crematoriums. It's the largest company of its kind in the world. A \$1.2 billion company, SCI boasts directors such as Anthony Coelho, a former Clinton White House adviser and Congressman (who received several thousand dollars in campaign contributions from SCI).

SCI and its peers - the Loewen Group, Stewart Enterprises, ECI and Prime Succession - are powerful, influencing pricing in every city in which they are located and the legislation that governs this least regulated of industries. SCI's presence, however, is muted, because it doesn't identify its ownership of the "mom and pop" or "heritage" funeral homes/cemeteries it buys. (When we were preparing this story, we were contacted by an SCI spokesperson but were not provided any information beyond annual reports.)

Both corporate and independent marketers have a similar strategy, however: Lock up your money in preneed "plans." The major selling points are "inflation" and "protection." But what are you really protected from? Is inflation a problem with funerals? What's the best way to finance a funeral?

Planning Ahead Does Make Sense. Every component of preneed selling is designed to make you do one thing: Pay for products and services in advance. That gives the company cash to invest for years, even decades, although you generally don't see a penny of return. You basically

lose control of the money. In theory, it makes sense, because funeral inflation is an ongoing problem. A \$1,500 funeral described in Jessica Mitford's best-selling *American Way of Death* more than 30 years ago is now a \$4,000 to \$10,000 affair. But that doesn't mean you have to spend that much. If you plan ahead, you can have the arrangements you want at a reasonable price.

There's little dispute that the cost of final arrangements is tracking or exceeding the overall rate of inflation. According to the U.S. Department of Labor's Bureau of Labor Statistics, the total rate of increase in the Consumer Price Index - a general measure of inflation - was 37 percent from 1987 through May 1995. The total increase in funeral prices was 52.4 percent over the same period.

Government statistics, however, only tell part of the story. "Nominal" prices for funerals average about \$5,000, according to Steve Saltzman, an analyst with the Chicago Corp. and an expert on the industry. Saltzman points out that when adjusted for inflation, the cost of funerals has changed little since 1968. But increases in merchandise costs - and consumer-driven demands for higher-quality burial containers - forces up the actual cost of funerals. "Consumers may talk value, but it's apparent that consumers are not looking at the cheapest alternatives [in funeral merchandise]," he says. "The opposite is true. Customers willingly purchase more expensive options because there are more choices."

Adds Steven Morgan of the American Cemetery Association, "[Final arrangement] costs don't necessarily go up the same as the cost of living, but we're still a proponent of preneed financing."

Of course, because consumers are not resisting higher prices for funeral goods and services - it's human nature not to shop around for these items - the industry can justify price increases across the board. That also raises your tolerance level for what you should expect to pay. The average funeral price was \$4,077 in 1994, according to the National Funeral Directors Association (NFDA). Unfortunately, that doesn't include additional costs such as cemetery plot, marker or opening/closing of the grave, which can run as high as \$3,500 in the pricey New York

area - just for digging and filling in the grave.

Jim Pinkerton, a funeral director in Pittsburgh and spokesman for the NFDA, says that although funerals can cost from \$200 to \$20,000, "In most areas of the country, \$5,000 to \$6,000 will cover everything." Corporate consolidation by companies such as SCI, Stewart Enterprises and Loewen may also raise prices in markets in which they serve, but not always. Pinkerton admits that "in many cases consolidation raises costs in certain markets, [but] prices are driven down where there's more competition." This is generally true. Our own survey found that you could save at least 20 percent on the price of goods and services where there were "third-party" or alternative providers. Pinkerton also notes that both consolidation and high overhead costs - up to 20 percent of a funeral's cost are due to complying with health and safety regulations - are ultimately passed along to the consumer in the form of higher service and merchandise costs.

Selling Final Arrangements. The death-care business is a growing industry that's closely tracking demographics. The following trends illustrate how the industry is positioning itself to reap profits in the future:

* The U.S. mortality rate has declined in recent times, according to the U.S. National Center for Health Statistics. Thanks to better health care and diet, people are living longer now than just a few decades ago. The death rate in the U.S. was 9.6 per thousand in 1950; it fell to 8.8 in 1991. However, because of an increase in population and the average age, the total number of deaths is increasing about 1 percent a year. Considering that there are 22,500 funeral homes in the United States, that means only about two "calls" (funerals) per week for the average funeral home. Consumer advocates have argued that this means there's not enough business to justify the number of funeral homes that now exist, which spurs even more aggressive marketing practices. Again, the statistics can be misleading. "Averages" are often abstract and may not reflect the situation everywhere. The leading companies in the business may perform up to 20 times as many funerals annually due to better marketing, management and efficiencies of scale. While there's little question that industry marketing is designed to grab more consumer

dollars, it's clear that, as elsewhere, the better competitors will gain the business.

* The industry wants you to "lock in" now and invest your money in an arrangement that may be more than you want to spend. Consumers spend "two to five times more" when buying funerals on a preneed basis, resulting in \$5 billion worth of overcharging," according to the Interfaith Funeral Information Committee. Add to that the "triple-dip" of funeral homes that peddle "funeral insurance" - preneed money placed in insurance policies reaping a healthy commission, future business and captive customers - and you have an industry in a unique position to guarantee future profits with today's money.

The most alarming situation is that final arrangements are being sold as ardently as "boiler-room" investments over the phone and through the mail. We caution you to spend wisely and know how every emotional lever is being pulled in an effort to separate you from your money - and best intentions.

The National Preneed Scandal: How to Shield Yourself From Poor State Laws.

Terry Milazzo, who retired from New York to Sun City West, Ariz., had to go to court herself (without a lawyer) to obtain a judgment against Roger D. Hackett and Heritage Memorial Service, a local funeral director who charged her \$3,000 for a "coffin liner" (a fiberglass shell she said resembles a plastic hamburger package) and preneed burial plan for her husband in a veteran's cemetery. Interment in veterans' cemeteries is free to veterans. The Arizona attorney general later sued Hackett, imposing \$260,545 in penalties. Milazzo says she's now active helping other victims of funeral fraud. Her experience, and the Iowa debacle covered at the start of this article, occurred because state and federal laws are dangerously flawed when it comes to preneed plans.

Iowa officials only uncovered the scams because state laws allowed them to conduct on-site inspections and audits of cemetery and funeral-home records. Although this should be a standard practice in every state, our investigation found that it's rarely done. Only a handful of states properly police a \$20 billion pool of money; 47 states simply trust those holding customer money to provide

honest reports.

Because of lax enforcement and weak laws, what happened in Iowa can happen in any state. In fact, if every state conducted the kind of inspections performed in Iowa, there's a good chance that millions of dollars would be discovered missing.

Observes Pam Greibel, an assistant attorney general in Iowa who has prosecuted massive funeral/cemetery fraud in her state, "It's been a big problem for a long time. I don't think people realize the kind of harm this industry can bring. Any time you've got people not dying fast enough [and idle funeral homes] you have room for fraud." And when state regulators finally catch up to a scam - because the laws almost encourage lax bookkeeping - consumers' money is long gone.

In our survey, the best state laws required from 70 percent to 100 percent of preneed funds be kept in trusts. That means that funds set aside for future funerals and burials had to be deposited in a federally insured bank trust account. Some states allowed up to 60 percent of those funds to be tapped for administrative purposes. As a general rule, though, it is best to keep at least 80 percent of the funds in trusts. While the vast majority of death-care firms are handling preneed funds honestly, the preneed scandal is at least a \$50 million fraud.

Here's why preneed is such an explosive issue:

* Annual preneed sales are expected to top 4 million contracts annually by the year 2000 (they were virtually unheard of 20 years ago), according to the Life Insurers Conference (LIC).

* More than half of all funerals will be prepaid and prearranged by the year 2000. Even now, 90 percent or more of cemetery lots are sold on a preneed basis, according to the American Cemetery Association.

* Some 60 percent of funeral homes market preneed plans, according to the Federated Funeral Directors of America. Every profitable funeral home makes preneed

plans a marketing priority.

* One of the largest players in the preneed insurance business is Hillenbrand Industries, which owns Forethought Insurance and Batesville Casket Co. Only in the business 10 years, the company has funded \$2 billion in preneed plans sold through 4,000 funeral homes in 41 states. The company will "freeze" the price of its Batesville caskets if a Forethought policy is purchased simultaneously in its "Total Casket Protection Plan."

In total, as of 1995, about \$50 million in preneed funds was stolen or reported missing nationwide. Of this total, six states report more than \$1 million has disappeared: California, \$28 million; Illinois, \$9 million; Iowa, \$6 million; Missouri, \$13 million; Tennessee, \$2.5 million; and Texas, \$1 million. State restitution amounted to only \$2.8 million, or 5.6 percent, of the total losses, and state penalties for preneed violations amounted to only \$2.2 million. We conducted a survey of all 50 states and the District of Columbia to determine what, if any, laws are on the books to protect preneed funeral customers. The results were appalling. Although many states are improving their laws, the key weakness of most of the new legislation is that there's little funding for auditing and enforcement to stop future theft. We found glaring shortcomings that should be corrected to protect consumers.

First, states have multiple agencies regulating cemeteries and funeral boards, or no regulation at all. (Alaska, Alabama, Montana and North Dakota have no direct regulation; residents of those states with complaints go directly to the state attorney general.) In some states, banking commissions do the job. In others, it's the industry-dominated funeral/embalming boards. "Only half of the states regulate preneed plans," notes Bill Gladden of the American Cemetery Regulators Association. "And every state is different."

Second, the FTC is responsible for enforcing the Funeral Rule, which only governs funeral-expense disclosure. The rule, however, is sparingly enforced by an inadequately staffed FTC. There is no federal law governing funeral insurance, preneed trusts or cemetery trusts. The FTC is also supposed to police deceptive practices, but it has

conducted no enforcement actions on this front (aside from direct Funeral-Rule violations).

Third, of those states with laws requiring some inspection of preneed bookkeeping, only a handful have the resources to do an on-site inspection or audit. Only three states, Arizona, Iowa and Louisiana, conduct annual on-site audits of cemetery records; the remaining 47 and the District of Columbia only require either an annual report or periodic spot-check every three or four years. Most states are scandalously understaffed in this area. California, with some 30 million residents and hundreds of cemeteries and funeral homes, has one cemetery-board auditor. When we asked him how often he audits cemetery books, he laughed.

Fourth, where there is little or no state regulation, some massive cases of funeral fraud end up in the hands of a state's attorney general. But by the time this happens, chances of restitution for those who bought preneed plans are slim. Dennis Wright, an assistant attorney general in Alabama, which has no preneed legislation (because of resistance from state funeral-industry lobbyists), has prosecuted funeral homes that have simply walked off with preneed money. He flatly admits that without a law in place, "This will go on for some time."

Special Report: Fraud in the Funeral Industry: How to Shop & Compare Prices

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HOW TO SHOP: COMPARING PRICES

The survey we prepared is not designed to show you the best price in every market - every arrangement is different- but a sampling of what you could pay. Caskets, for example, are one of the most expensive products you will buy for a funeral. The range was incredible - from \$26 to \$33,000 for a burial container, from \$100 to \$5,000 for a concrete burial vault, from \$100 to \$1,500 for a cremation urn and from \$500 to \$250,000 for a burial space. Naturally, the price you pay depends on the material of the product and where you buy it.

Regarding burial containers, the more expensive the materials, the higher the price - and subsequent markup. Unless you're a trained observer, it's nearly impossible to tell the difference between the quality of a "brand-name" casket and one of comparable design. The difference in price, however, runs into the thousands of dollars. And this is one consumer category where the quality of the product is irrelevant given its unendurable nature. Of course, if you want to pay for cosmetic appeal, you'll have many choices.

Note: In every case, the alternative providers we surveyed were 20 percent to 50 percent less than funeral homes or cemeteries, although they were still making at least a 50 percent profit. Also keep in mind that no matter what warranties or seals were offered by manufacturers (by federal law, funeral directors are forbidden from offering such warranties), you may be paying extra for something that probably you'll never have to check.

We obtained wholesale and retail price sheets from major manufacturers to show you how much and how little you can pay. We used the highest retail price in each category to give an example of the kind of profit being reaped. Of course, you can buy all of these products for less than half what the highest-priced supplier charges.

Burial Container Cost Comparisons

| Type | Retail | Wholesale | Profit |
|----------------|--------|-----------|--------|
| Cloth-covered | \$500 | \$167 | 199% |
| Pine (solid) | 1,897 | 749 | 153 |
| Oak (solid) | 2,600 | 801 | 224 |
| Steel (16g) | 2,255 | 1,074 | 109 |
| Poplar (solid) | 3,050 | 386 | 690 |
| Cherry (solid) | 3,550 | 1,284 | 176 |

| | | | |
|----------------------|--------|-------|-------|
| Steel (stainless) | 4,050 | 989 | 309 |
| Mahogany (solid) | 8,500 | 1,810 | 369 |
| Bronze (48 oz.) | 31,000 | 3,725 | 732 |
| Copper (solid) | 33,000 | 1,625 | 1,930 |

PRICING AN ARRANGEMENT: GETTING THE BEST VALUE

There's an undeniable need to make final arrangements that are satisfying to the family. You - or your loved ones - can spend as much as you want, but spend wisely.

You should always do what you feel most comfortable with - and plan ahead whenever possible. Since the industry is targeting senior citizens with their aggressive preneed marketing - because some 71 percent of deaths occur in persons 65 or older - do your planning at a pressure-free time and environment. Take your time. Choose what you want. You'll probably spend more "at need" (when a death has occurred) than through a preneed plan. The following is a checklist that combines both the FTC Funeral Rule with items you need to consider when making funeral arrangements for a deceased friend or family member:

Plan ahead. This is the best way of avoiding getting intimidated when you're "at need." Take your time to discuss arrangements, burial containers or cremation, memorial services and every detail you think is relevant. The reason so many families overspend on funerals is that they rely on funeral directors at need to plan the arrangements. Sharing the decision also helps the grieving process. In making cemetery arrangements, you can always save money. Simple vaults can be purchased for under \$500. On all items, feel free to shop around (check the *Yellow Pages*) and present competitors' quotes to the funeral home or cemetery of your choice. All items are negotiable and you're under no obligation to buy any or all products or services from a single provider. If you pay preneed money to a cemetery, make sure you see a map

of where your plot is and that the money is placed in a federally insured bank trust account-and independently audited.

Know how much you can afford to spend, and negotiate to stay within your guidelines. Like good auto salespeople, funeral directors are adept at sizing up how much you can afford based on the clothes you wear, the car you drive and the standing of your family in the community. They can even search your credit file electronically, which is why they may ask for a Social Security number. But you can honor the deceased and stay within your family's budget.

How will you pay for the arrangements? Find out if the deceased had a funeral insurance policy, a preneed trust or plan or a life-insurance policy. If it's up to the family to fund the funeral, poll key family members on their idea of appropriate arrangements. Social Security recipients who were forced to "spend down" their assets to qualify for Medicaid care in a nursing home can set aside money in an "irrevocable" (the money can't be removed) trust, bank account or cash-value life-insurance policy. This vehicle must be used exclusively for funeral expenses. Another option is to set aside \$1,500 in a "revocable" trust. You can't have both, however. Veterans can be buried for free in veterans' cemeteries, but funeral expenses are not included. Make sure (on all preneed contracts): 1) Your money is in a revocable, federally insured "Totten" bank trust account (or do it yourself); 2) The price of the funeral is guaranteed; 3) The contract is "portable" (you can use the funds in any state); 4) Any interest will be paid to you or your estate. Don't buy any of these plans over the phone or through a high-pressure sales pitch. Note: Every preneed plan should give you the option of a full refund. Preneed plans where the funeral director buys insurance-and is named a beneficiary-are usually a bad idea for consumers because you don't get dollar-for-dollar coverage (commissions and expenses reduce the amount set aside). Funeral insurance may be more tax-advantaged, but you lose control of your money.

Ask for a price list from several sources. Under federal law, the funeral home or cemetery must provide you with a "General Price List." Again, keep in mind that you don't have to buy everything from one source. You can buy urns,

memorials, vaults and caskets from third-party suppliers. Under the FTC Funeral Rule, it's illegal for a funeral home or cemetery to charge you a "handling fee" for receiving goods from another source. You can even supply a handmade casket. Obtain manufacturer model numbers and prices so you can compare. Also see the related article, "Where to Find Help," for numbers of regional alternative providers that may be able to save you money on services and merchandise.

Plan your "cash-advance items" carefully. You should be informed on the General Price List if certain items will be billed directly to you and how much they will cost. These items may include clergy honorariums, music, death certificates, flowers, obituaries, guest books and prayer/acknowledgement cards.

If you need alternative arrangements, be sure you know the additional expenses. Other expenses include limousines/flower cars, shelter of remains, donation to a medical school and forwarding or receiving of remains. Each expense should be specified on the General Price List. For example, you're not required to buy a casket for cremation or a "burial vault" (grave liners are less expensive and may be required by the cemetery) for interment. Low-cost (under \$250) "alternative" containers should be provided.

Watch preparation expenses. Under the Funeral Rule, unless specified by state law, embalming is not required. Most modern funeral homes and hospitals have refrigeration facilities. There's usually no reason to embalm if there's a cremation, direct burial or no viewing. Additional expenses incurred may include restoration, dressing and cosmetology. Keep in mind that there's no need for these services in a "closed-casket" or direct burial/cremation. Again, these items should be included on the General Price List.

Choose the ceremony site carefully. Many alternative funeral planners have found that church, temple or gravesite ceremonies are not only more appropriate for families, but are less expensive. Keep in mind that you're being billed for both staff and facility overhead costs when you use a funeral home-and it may be the most impersonal place for the ceremony. In most states, you can plan every

aspect of the arrangements without help from a funeral director. This can be a rewarding experience, as well as a money-saving one. It's not unusual for funeral homes to charge \$100 an hour for their services.

Get an itemized list of expenses before the funeral.

Get it in writing so that you're not billed for something you don't want. If arrangements are bought in advance through preneed plans, the money should be placed in an audited, federally insured account. If the actual merchandise is purchased, it should be placed in a bonded warehouse, recommends the NFDA.

A General Price List should

include the following items:

- * Direct cremation/immediate burial
- * Basic services (overhead)
- * Transfer of remains to funeral home
- * Forwarding/receiving of remains to/from other facility
- * Embalming and preparation (restoration, cosmetology)
- * Use of facilities/staff for viewing or a ceremony
- * Use of equipment/staff for graveside service
- * Hearse/limousine
- * Casket prices (individual or range)
- * Outer burial container prices (liners/vaults)

Special Report: Fraud in the Funeral Industry: Why the FTC Doesn't Protect You

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WHY THE FTC DOESN'T PROTECT YOU

Gloria Semonian was pressured into signing a preneed contract with a local cemetery in suburban Detroit. Offering no brochure or sales materials, the salesman scribbled three offers on a piece of paper to get her to sign up in one day. "There has to be some integrity [in preneed selling]," she says. "It was very high pressure - I was pressured to sign that day even though I hesitated because I was laid off. People are vulnerable, especially when a death occurs, and should never have the burden of worrying about whether or not they can trust the people they have chosen to assist them through their difficulty."

The vast majority of preneed plans are legitimate, but our investigation showed that preneed fraud is far outpacing state and federal attempts to police and contain it. Worse yet, when consumers are stung in a preneed scheme, their chances of recovering their funds are slim. The Federal Trade Commission (FTC) has yet to provide any restitution for the more than \$50 million lost by preneed consumers over the last five years. While that's a small portion of the estimated \$20 billion pool of preneed money - only about .25 percent - there's still a need for better regulation. Overall, the FTC has recovered \$53,320 (a meager \$7,617 per year) for consumers since 1988 and imposed \$977,500 to date in fines against funeral homes. Unfortunately, only one of the FTC's enforcement cases (involving a \$20,000 fine) involved preneed funding, where most of the abuses lie (more than half involved failure to provide a price list). All told, the agency has only logged 111 consumer complaints and 34 enforcement actions.

How thorough is the FTC's regulation of the industry? Alan Hile, assistant director for marketing practices at the FTC, says only two people "devote most of their time to enforcing the Funeral Rule," although "any number of attorneys may work on antitrust or Funeral-Rule matters."

Since the FTC emphasizes "consent decrees" (where a small fine is imposed and the firm is enjoined from an illegal action), valuable audits that could reveal and stop fraud are not being conducted. Even funeral directors concede that the complex of federal and state laws fall short when it comes to the treacherous field of preneed

funding.

"Somebody has to be the watchdog to audit and watch over preneed money," notes Jim Pinkerton, a spokesman for the National Funeral Directors Association. "There's no accountability; many millions can be lost."

Most of the largest cases involving preneed funds are handled by state attorneys general (only one preneed case has been cited by the FTC in an enforcement action). In Missouri, the state reached a settlement on a \$13.5 million shortfall involving underfunding by a preneed marketer. Pennsylvania officials reluctantly cracked down on an \$11 million preneed "Ponzi" scheme. California alone is attempting to sort out some \$28 million that's missing from preneed trust accounts.

As a result of low compliance with the Funeral Rule, but not directly related to preneed fraud, the FTC is teaming up with state attorneys general to conduct sweeps of metropolitan areas throughout the country "to make a resounding statement as to the importance of the rule," Hile noted. Some nine new probes were announced as this went to press.

Ironically, though, the FTC doesn't even have a budget to publicize the Funeral Rule to consumers, most of whom don't even know it exists. The agency's own studies admit that nearly two-thirds of the industry largely ignores the law. A 1990 FTC report found that "compliance with the rule has been in the area of 36 percent." Moreover, the same report states: "The record supports the conclusion that the overwhelming majority of consumers are unaware of the Funeral Rule."

"The FTC doesn't have any funding to pay for advertising the Funeral Rule, so it plans to publicize it through public-service announcements; joint projects with trade associations and consumer groups; and brochures in high schools," Hile explains.

Rev. Henry Wasielewski, a retired Catholic priest who founded the Interfaith Funeral Information Committee after he noticed that poor families were being gouged for funerals, regularly monitors the industry. His assessment:

Things are getting worse. "With some 22,000 mortuaries and a handful of FTC guys, there's almost no chance of them [fraudulent operators] getting caught," he says.

Every consumer advocate we interviewed denied that the Funeral Rule is keeping prices down or protecting consumers. In fact, our analysis of FTC enforcement and regulation showed that the Funeral Rule may be hurting more than helping. Based on nationwide interviews, FTC records, reader surveys and price analyses, we uncovered the following:

* The Funeral Rule has done nothing to lower prices in the industry. If anything, prices have risen because of it, since the FTC allows firms to incorporate any amount of overhead into their "basic/minimum services" or nondeclinable fee. This fee provides little value for consumers, because it's usually paperwork and consultation. It doesn't include any major cost items such as burial containers or use of facilities. It was not unusual to see minimum fees from \$500 to \$1,600 just to retain a funeral director. The fee is called a "cover charge" by death-care advocates, who claim that it's rising out of control. Lisa Carlson of the Memorial Society of Vermont reported to the FTC that the fee had jumped some 80 percent since the FTC allowed the incorporation of overhead. The agency, however, did nothing to rein in these charges. The Funeral Rule is one of the few laws that guarantees that consumers be charged for overhead and profit before they can do business with that funeral-services firm (a unique law governing any industry). There's no question that conventional funeral homes have significant overhead. But the minimum service fee has no limit, and firms also make huge profits on caskets, services and other goods because the industry - as has long been the case - takes advantage of the fact that most customers will not compare prices in a time of grief.

"We simply aren't dying fast enough to provide a full-time salary at reasonable funeral prices," says Carlson, who detailed such practices in her book *Caring For Your Own Dead* (Upper Access Publishers, 800/356-9315). "The nondeclinable fee permitted by the FTC is an invitation to abuse." Counters Jim Pinkerton, a spokesman for the National Funeral Directors Association, "We don't see anything wrong with [the fee]. Families always have a

choice among many funeral homes. They don't want to go to a business that's losing money." Replies the FTC's Hile, "the purpose of the [Funeral Rule] is to provide disclosure, not maintain prices in this business or any other."

* Cemeteries are among the most inadequately regulated entities in the industry. The Funeral Rule doesn't cover cemeteries unless they have a funeral home on the premises. Technically, cemeteries should be included if they sell funeral goods and services. But a bigger dilemma is the "trusting" of preneed funds.

* The FTC has even made it more difficult for consumers to shop for death-care services. After intensive industry lobbying, the agency rescinded a requirement that made detailed price list information automatically available over the phone. Funeral homes no longer have to volunteer the information-but must make it available if you ask "because the industry found it awkward to mention price first," adds the FTC's Hile. Notes William Counts of the Chicago Memorial Society, "I've never heard of anyone getting a price list over the phone. [The Funeral Rule] is a toothless law."

* There is evidence to suggest that where corporate chains gain a dominant market share, overall prices climb. For example, after SCI bought funeral homes in Dallas, prices on traditional funerals and minimum services doubled, according to the Memorial Society of North Texas. In Houston, where SCI performs some 7,000 funerals per year (independent firms handle only a few hundred per year), the cost of a funeral ranges from \$8,000 to \$14,000-which makes the city one of the most expensive places to die in the nation, according to Karen Leonard, a prominent death-care advocate of the Redwood Memorial Society. "Usually funeral prices double after a [corporate acquisition]," notes Wasielewski, who has surveyed prices in the Phoenix market. "Once they've socked you with the markup on professional services, they've already made \$2,000 before they talk you into the next highest-price casket."