# **Funeral Consumers Alliance of Texas**

6524 Brookdale Dr • Watauga, Texas 76148

817 360-4727

An alliance of nonprofit funeral consumer information, education, and memorial societies serving Texas consumers

#### **Affiliates**

**Austin Memorial and Burial** 

Information Society (AMBIS)

P.O. Box 4382

Austin, TX 78765 512.480.0555

mail@ambis.info

www.ambis.info

Funeral Consumers Alliance of

Houston

5200 Fannin Street

Houston, TX 77004

713.526.4267

fcah@swbell.net

www.funerals.org/houston/

Funeral Consumers Alliance of

2875 East Parker Road

Plano, TX 75074-7503

972.509.5686

www.texasfuneralconsumers.org

**Funeral Consumers Alliance of** 

San Antonio

7150 IH-10 West

San Antonio, TX 78213

210.341.2213

www.fcasatx.org

A cooperative venture in

Funeral Consumers

Alliance

33 Patchen Road

South Burlington, VT 05403

800-765-0107

www.funerals.org

Organized under the Texas

Uniform

Unincorporated Nonprofit

Association Act

Dear Craig Tregillus,

The Funeral Consumers Alliance of Texas (FCAT) is asking for a FTC staff opinion concerning charging consumers for funeral home logos inserted into obituary notices in newspapers; without the cost of the logo being disclosed to the consumer. The Funeral Consumers Alliance of Texas believes this practice to be in violation of the Federal Trade Commission Funeral Rule.

# Background

Most of the large market daily newspapers in Texas have funeral home logos inserted within the body of an obituary. The cost for the lines/per inch range from \$33 to \$95 per column inch for the space that a logo takes in an obituary. Most logos are 1/2 to 3/4 of an inch in height. Below is an example of an inserted logo in an obit.



ONALD JOHN NEED-HAM, 72, born on Sep-tember 14, 1938 in Elburn, 1 linois, passed away on April 20 2011 after a heroic fight nasian nyelodysplastic syndrome. Don was preceded in death by his parents, Edna Marie John-son and Lloyd Leonard Need-ham, and his brother, Robert Needham.

and a loyd Leonard Needham, and his brother, Robert Needham, and his brother, Robert Needham, and his brother, Robert Needham, Don will be sorely missed and forever remembered by his siblings, James Needham, Richard Needham, William Needham, and Joyce Barnes; his children, Tim Needham, William Needham, and Joyce Barnes; his children, Tim Needham, William Needham, and Joyce Barnes; his children, Tim Needham, William Needham, William Needham, William Needham, William Needham, William Needham, John Stone, Mark Stone, John Stone, Atticus Walker and Independence Walker.

Don grew up in Sioux City, lowa and graduated from Loyd Needham, which was not be some the southern Methodist University in Dallas, Peaca where he was on the golf team and a member of Don moved to New Mexico in 1993, drawn to its artistic community and natural beholding a Memorial Service in 1993, drawn to its artistic community and natural beholding a Memorial Service in 1993, drawn to its artistic community and natural to honor and celebrate his life. Santa Fe, New Mexico in June to honor and celebrate his life. Its great love for his dog, Sam, blesting to make contributions to The Santa Fe Animal Shelter and Humane Society, 100 Caja Del Rio Road, Santa Fe, New Mexico 87507, www.sfhumanesociety.org, or charity of your choice.

our choice.

The family wishes to thank

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The Methodist Hospital in

Couston, Texas. Condolences

To be offered at www.miller-



FCAT does not think that the listing of the funeral home address and phone number in an obituary is a violation of the Funeral Rule, because it serves a legitimate consumer purpose of directing friends and family to the place of funeral services as stated in the obituary. But the use of a funeral home logo appears to only be advertising by the funeral home; paid for by the consumer. Actual "Statement of Goods and Services" sampled by FCAT have not shown any listing for the column-inch charge for a logo in the Cash Advance Items. Only "Obituary" and an amount are listed.

### **Estimate of Consumer Impact**

Numerous samples of major daily newspapers in Texas were taken to assess the dollar impact of undisclosed logo placements in obituaries. Not all obituaries have logos, but the sampling included only obituaries with logos.

The approximate per/year cost to consumers in Texas: Dallas Morning News-\$450,000. Houston Chronicle-\$520,000. San Antonio Exp News-\$\$355,00. Austin American-Statesman-\$78,000 Lubbock Avalanche Journal-\$37,000.

#### **Directors**

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There are more newspapers in Texas using logos in obituaries, but suffice it to say, it appears that between \$1M and \$2M per year are being charged to consumers for funeral home advertising through undisclosed charges to consumers in apparent violation of the Funeral Rule.

## **An Interesting Exception**

While doing the research, the writer noticed that the Fort Worth Star-Telegram, another major daily in Texas, does not have any logos in any obituaries. The obituary person at the Star-Telegram was asked why this was the case. Marcia Ammons stated that when she took the job in 1995, she diligently studied the FTC Funeral Rule and Texas funeral statutes. Mrs. Ammons determined that it was a violation of the Funeral Rule to charge consumers for inserted logos in an obituary without proper disclosure to the consumer. Since she could not verify compliance, she made it a policy not to accept any logos in obituaries because she did not want the newspaper to be held accountable for violating the Funeral Rule. Her management agreed, and that policy has remained in place to date.

#### Conclusion

It is probably impossible, without legal action, to tie numerous logos in obituaries with "Statements of Goods and Services" that do not disclose the extra charge. Samplings of hundreds of "Statements of Goods and Services" have not shown a logo disclosure that could then be researched to see if it was printed in the newspaper. Going "in reverse", tying a logo to a "Statement of Goods and Services", could probably only be accomplished with court action to produce the evidence.

It is hoped that the FTC can process this request based on the above information, and yield a staff opinion to answer the question. If additional information is needed, please contact the writer as listed in the letterhead.

Best regards,

Jim Bates Director, Funeral Consumers Alliance of Texas