

LATE

Larry Geller
Honolulu, HI 96817

SB2516
CPN
Thursday, February 4, 2010
9:00 a.m.
Room 229

COMMITTEE ON COMMERCE AND
CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

February 2, 2010

Re: SB2285—Relating to Pre-Need Funeral Plans
SB2516—Relating to the Funeral Industry

In Support

Dear Senator Baker, Senator Ige, and members of the Committee:

There's nothing like having a loved one pass away and being told by the funeral home that they have no record of the pre-paid contract that was supposed to cover all funeral costs. This happens in Hawaii at present, according to family reports.

Still others, in the midst of their grief, have been asked to pay additional sums because, they are told, their pre-paid plan no longer covers the cost at current rates.

Additionally, the plans skim 30% off the top for doing nothing at all and retain the interest accumulated over the years. The plans are non-transportable in the event someone leaves Hawaii or wishes to obtain a refund to purchase a plan in another state.

Consumers can be protected and assured that their last wishes will be carried out. These two bills go a long way to providing that protection.

New York State has what is considered to be a good law. When my mother passed away several years ago in NY, the funeral home delivered exactly what was in the contract. Over the years, of course the cost went up, but there was no attempt to escape from any aspect of the contract nor to extract additional payments from the family. The ceremony and indeed all of the arrangements were top notch. I'm sure it was just what my mother hoped for. It definitely was what she paid for.

Hawaii residents deserve no less protection than the New York law provides. Similar laws in other states demonstrate that there should be no hardship to the industry for simply being held to what they have contracted to do. The two bills together provide procedures and safeguards that are long overdue.

I urge the committee to pass both of these bills.

Larry Geller

Attached: Sample complaints received in answer to a UIPA request

STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

OAHU OFFICE

www.state.hi.us/dcca/nico

2008 APR -9 P 4:43

COMPLAINT FORM

Case No. *CEN 2007-1-P*

CONSUMER COMPLAINTS SECTION For Official Use Only

The company/individual you complained against will be informed of this complaint in order to facilitate resolution of this matter. Your complaint may also be referred to mediation, if appropriate. This complaint will not be processed unless this form is complete, legible, signed, dated and includes copies of all available evidence.

YOUR NAME

Please print legibly or type

(Last)

(First)

(Middle)

Mr.
 Ms.
 Mrs.

Social security number (optional, for identification purposes only):

Address:

Telephone number where you may be reached (8:00am-4:30pm):

Residence number:

Business number:

NAME OF COMPANY OR INDIVIDUAL YOUR COMPLAINT IS AGAINST

Mr.
 Ms.
 Mrs.
Address:

Memorial Mortuary

Phone number: ✓

Fax number:

Name of person you dealt with:

License number: ✓

Briefly explain your complaint (attach separate sheet if necessary):

I bought a funeral plan 9/19/89 for both my husband & myself. My husband's plan was honored by after the state was involved.

I now feel that the state took the funds from my plan & should refund my money as it will not be able to take care of my funeral costs. I need to get another plan with Dodo mortuary.

OTHER INFORMATION

1. Have you contacted the company/individual to try and resolve your complaint?

If you have not done so, please attempt to resolve your complaint with the company/individual before you file this complaint.

I am unable to contact the company/individual.

Yes (Please tell us what happened. Include names of persons contacted and dates of contact.)

I went to office on 202 MAKA'ALA St. about a month after state involved. He said "he was sorry he could not refund my plan cost as state took the funds, however he said he would take care of my funeral as the plan is. If he is still in business. He suggested I write to state + request full refund plus interest."

2. What documents do you have to support your complaint? Please attach **COPIES** of all documents. Do not submit originals; they will not be returned to you.

Contract Cancelled checks (front and back)

Credit card statements Receipts

Invoices Correspondence

Warranty/Guarantee Advertisement and/or business card

Other (please list) ⁽¹⁾ Mail envelop. ⁽²⁾ Business envelop. ⁽³⁾ Plan #745 card

3. What are you seeking as a resolution to your complaint? Please remember that what you are seeking may not be within the jurisdiction of this office.

⁽²⁾ Full refund of \$1,100.00 or ⁽¹⁾ Guarantee that my plan is still active + honored upon my death.

I certify that all statements in this complaint are true and correct to the best of my knowledge. I understand that RICO is unable to represent private parties in court.

Sign here:

Date:

April 5, 2008

*Please submit this form with your **original** signature (failure to do so may delay the processing of your complaint).

This printed material can be made available for individuals with special needs in braille, large print or audio tape. Please submit your request to the Complaints and Enforcement Officer at 586-2666.

REDACTED

STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE
CONSUMER RESOURCE CENTER
OAHU OFFICE
235 SOUTH BERETANIA STREET, 9TH FLOOR
HONOLULU, HI 96813
www.hawaii.gov/dcca/ico

SHL
DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS
2008 APR 21 A 11:33
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CONSUMER COMPLAINTS
SECTION

COMPLAINT FORM
Case No.

The company/individual you complained against will be informed of this complaint in order to facilitate resolution of this matter. Your complaint may also be referred to mediation, if appropriate. This complaint will not be processed unless this form is complete, legible, signed, dated and includes copies of all available evidence.

YOUR NAME

Please print legibly or type (Last) (First) (Middle)
 Mr.
 Ms.
 Mrs.

Social security number (optional, for identification purposes only):

Address: Telephone number where you may be reached (8:00am-4:30pm)
Residence number:
Business number:

NAME OF COMPANY OR INDIVIDUAL YOUR COMPLAINT IS AGAINST

Mr. Right Star Management Inc
 Ms.
 Mrs.
Address: Phone number: 739-8811
47-277 Kahakili Hwy
Kaneohe, HI 96744 Fax number:
Name of person you dealt with: (Customer Service)
License number: (General Manager)

Briefly explain your complaint (attach separate sheet if necessary): Could not be reached.

See attachment.

OTHER INFORMATION

1. Have you contacted the company/individual to try and resolve your complaint?

If you have not done so, please attempt to resolve your complaint with the company/individual before you file this complaint.

I am unable to contact the company/individual.

Yes (Please tell us what happened. Include names of persons contacted and dates of contact.)

I sent a letter on 30 March 2008, no response

I called Right Star asking to talk to
In a meeting, please try again
later, on the telephone!

2. What documents do you have to support your complaint? Please attach **COPIES** of all documents. Do not submit originals; they will not be returned to you.

Contract

Cancelled checks (front and back)

Credit card statements

Receipts

Invoices

Correspondence

Warranty/Guarantee

Advertisement and/or business card

Other (please list)

Pre-Purchased Funeral Services
Certificate

What are you seeking as a resolution to your complaint? Please remember that what you are seeking may not be within the jurisdiction of this office.

Public notification that certain funeral plans are
not being honored. Full or partial refund
of five thousand dollars.

certify that all statements in this complaint are true and correct to the best of my knowledge. I understand that RICO is unable to present private parties in court.

Sign here:

Date:

15 Apr 08

Please submit this form with your **original** signature (failure to do so may delay the processing of your complaint).

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Chronological Events

15 Apr 2008

purchases Funeral Service plan from Hawaiian Memorial Services on 02 Oct 1987. It entitled her to one complete Funeral Service, Cremation, and Bronze Urn. It was sold to her by . My mother believed this plan included a service and burial at Hawaiian Memorial Park.

On 05 March 2008 I met with (Mortuary Representative) who looked over the paperwork and told me that everything (service, cremation, and burial) is paid for except the food. At that time we reserved the Chapel for the 29th of March 2008. During this time Mother () was already in the Kailua Hospice house. She wanted to make sure everything was what she had planned for.

On 08 March 2008 my mother passed away. The Hospice nurses called (number provided by) Hawaiian Memorial Mortuary to pick my mother.

On 13 March 2008 I met with , a funeral director. At that time informed me that the plan my mother had purchased was no longer being honored. The mortuary was sold to another company and no longer run by the Ordenstein family. I later found out it was sold to RightStar Management Inc. brief my wife and I that they (RightStar) changed the policy on the 1st of March 2008, no longer honoring certain plans. I knew I was being violated but I felt obligated to give my mother the kind of service and burial she wanted. explained that the mortuary before it was sold was honoring this funeral plan but now we had to go with Borthwick Mortuary in Honolulu. I kept telling her this was not an option because my mother wanted everything at Hawaiian Memorial Park.

I ended up pay \$4,189.48 for the service and burial the way my mother wanted.

On 30 March 2008 I sent a letter to Hawaiian Memorial Park Mortuary (enclosed). I gave them to the 14th of April 2008 to respond, they did not.

On 02 April 2008 I contacted who still works for Borthwick and told her what had happened. She said she would do some research and get back to me.

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 DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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 HONOLULU, HI 96813
www.hawaii.gov/dcca/rico

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
 2009 MAY 28 P 1:38
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 CONSUMER COMPLAINTS

COMPLAINT FORM

Case No. _____

The company/individual you complained against will be informed of this complaint in order to facilitate resolution of this matter. Your complaint may also be referred to mediation, if appropriate. This complaint will not be processed unless this form is complete, legible, signed, dated and includes copies of all available evidence.

YOUR NAME

Please print legibly or type (Last) (First) (Middle)
 Mr.
 Ms.
 Mrs.

Address: _____ Telephone number where you may be reached (8:00am-4:30pm)
 Residence number: *same as above*
 Business number: *none*

NAME OF COMPANY OR INDIVIDUAL YOUR COMPLAINT IS AGAINST

Mr. DIEGO MORTUARY, INC.; dba Memorial Mortuary
 Ms. 297 Waiannuue Ave
 Mrs.
 Address: *297 Waiannuue Ave*
Hilo, HI 96720
 Phone number: *(808) 935-1257*
 Fax number: *(808) 969-9574*
 Name of person you dealt with: _____
 License number: _____

Briefly explain your complaint (attach separate sheet if necessary): *I called _____ in 2005 when I read in the Hawaii Tribune-Herald that her parents were being charged with stealing money from their customers that had paid ahead of time for their funeral plans. Well one of them was my dad. At that time I asked her about my dad's plan + she told me "oh he's fine you need not to worry he's OK". So I asked her "are you folks going to shut down?" and she said "No" Now they got caught in 2004 + this conversation was the end of 2005. Last weeks Tribune-Herald said that they had shut down in 2006. I was mad. She knew who my dad was, she was the one that dealt with him. She signed the receipt. She told me "he's OK," and they shut down a few months after. She lied to me. I should have known better they took money from every one that had paid for their funeral plan. One hundred of them are getting some money back but my dad is not part of the 100. Hope you can help me.*

OTHER INFORMATION

1. Have you contacted the company/individual to try and resolve your complaint? *Yes. Their phone is no longer in service.*
If you have not done so, please attempt to resolve your complaint with the company/individual before you file this complaint.

I am unable to contact the company/individual. *I was just informed that their business had been shut down in 2006 but I called the phone number any way*
 Yes (Please tell us what happened. Include names of persons contacted and dates of contact.)

2. What documents do you have to support your complaint? Please attach **COPIES** of all documents. Do not submit originals; they will not be returned to you.

- Contract
- Canceled checks (front and back)
- Credit card statements
- Receipts
- Invoices
- Correspondence
- Warranty/Guarantee
- Advertisement and/or business card

Other (please list) Receipt of a Funeral Plan

3. What are you seeking as a resolution to your complaint? Please remember that what you are seeking may not be within the jurisdiction of this office.

It's a funeral plan that my dad had paid for in cash and I want him to get his money back if possible. I am his daughter one whom they was supposed to contact if they were any changes.

If you believe that this complaint involves issues particularly affecting the elderly, please check here:

I certify that all statements in this complaint are true and correct to the best of my knowledge. I understand that RICO is unable to represent private parties in court.

Sign here:

Date:

5/26/09

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LATE



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Thursday, February 4, 2010
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2285, RELATING TO PRE-NEED FUNERAL
PLANS.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Candace Ito, Executive Officer of the Cemetery and Funeral Trusts Program in the Department of Commerce and Consumer Affairs ("Department"). We appreciate the opportunity to present testimony on Senate Bill No. 2285, Relating to Pre-Need Funeral Plans.

The purpose of Senate Bill No. 2285 is to require the refund of interest earned by the trust to the purchaser upon cancellation of the pre-need contract, require 100% of payments made by purchasers of pre-need plans be deposited to trust, require the

trustee to provide confirmation notice to purchasers, and require the trustee or pre-need funeral authority to provide purchasers with an annual statement.

The Department supports initiatives that will work and help consumers. The following provisions in this bill clearly benefit consumers and we hope they are workable such that the financial solvency of a cemetery or pre-need operation will not be negatively impacted as that may ultimately harm consumers:

SECTION 2 – The purchaser be entitled to a refund of interest earned by trust;

SECTION 3 – 100% of purchaser payments be deposited to trust except that we would recommend a change for clarification purposes, that disbursements be only from the “income of the trust” to be consistent with HRS sections 441-39 and 441-40;

SECTION 3 – Confirmation notice to be provided by the trustee provided this also is not onerous on the trustee nor increase costs to purchasers of pre-need services and merchandise. Additionally, we suggest clarification of when such notice is to be provided (e.g., with each payment, quarterly, semi-annually, yearly) in order for impacts to be determined;

SECTION 3 – An annual statement be provided to the purchaser by the trustee or pre-need funeral authority provided again, this is not onerous on the trustee or authority nor increase costs to purchasers of pre-need services and merchandise. The addition of “or cemetery authority” should be added to the end of line 9, page 4, to correctly reflect both authorities that offer pre-need services; and

SECTION 5 – The effective date of this bill (July 1, 2010) may need to be reconsidered if more lead time is needed by authorities and trustees to prepare for implementation.

Testimony on Senate Bill No. 2285
Thursday, February 4, 2010
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Thank you for the opportunity to provide testimony on Senate Bill No. 2285.