

IN THE MATTER OF

ROBERT LEWIS WILKS, D/B/A/ BARBER FUNERAL HOME

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3267. Complaint, Oct. 13, 1989—Decision, Oct. 13, 1989*

This consent order prohibits, among other things, a Springfield, Tenn. funeral home director from doing business as a funeral service provider, or from having any business relationship with any entity selling or offering to sell funeral goods or services to the public.

Appearances

For the Commission: *Mamie Kresses* and *Lydia Parnes*.

For the respondent: *Robert M. Crawford*, Springfield, Tn.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. 45 *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that respondent Robert Lewis Wilks, individually and doing business as Barber Funeral Home, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Robert Lewis Wilks was the owner and operator of the Barber Funeral Home, a sole proprietorship, in Springfield, Tennessee. He is currently incarcerated at the Robertson County Jail, 500 Willow Street, Springfield, Tennessee. At all times relevant to this complaint, respondent, a licensed funeral director and embalmer in the states of Tennessee and Kentucky, has directed and controlled the business acts and practices of the Barber Funeral Home.

PAR. 2. Since at least 1968, respondent has been engaged in the business of selling caskets, vaults, and other funeral goods to customers making funeral arrangements.

PAR. 3. Since at least 1968, respondent has been engaged in the

business of selling funeral services to his customers, such as funeral supervision, care and preparation of the deceased for services and burials, and the burial or other final disposition of the bodies of the deceased.

PAR. 4. In the course and conduct of his business, respondent has engaged in the sale of funeral goods and services to consumers in Tennessee and Kentucky, and has thus maintained a substantial course of trade in or affecting commerce as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. 44.

PAR. 5. In connection with the sale and provision of funeral goods and services to consumers, respondent has represented to consumers, directly or by implication, that he provides the caskets, burial vaults, and services selected and purchased by his customers.

PAR. 6. In truth and in fact, in numerous instances since 1981, respondent buried deceased persons without the caskets or burial vaults selected and purchased by his customers. Therefore, respondent's representations as set forth in paragraph five are false and misleading, and constitute unfair or deceptive acts or practices, in or affecting commerce, in violation of Section 5 of the FTC Act.

PAR. 7. In connection with the sale and provision of funeral goods and services to consumers, respondent, in numerous instances, has desecrated the bodies and graves of the deceased by such actions as dumping trash into the caskets or graves, and burying bodies without the caskets or burial vaults selected and purchased by his customers.

PAR. 8. Respondent's acts and practices, as set forth in paragraph seven, have caused substantial consumer injury without offsetting benefits to consumers and competition, and cannot reasonably be avoided by consumers, and thus constitute unfair acts or practices, in or affecting commerce, in violation of Section 5 of the FTC Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent, Robert Lewis Wilks, and the respondent having been furnished thereafter with a copy of a complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission

having thereafter executed an agreement containing a consent order, an admission by the respondent of all of the jurisdictional facts set forth in the aforesaid complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined it had reason to believe that the respondent has violated the Federal Trade Commission Act, and that the complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

(1) Robert Lewis Wilks ("Wilks") is a resident of the State of Tennessee, with his current residence at the Robertson County Jail, 500 Willow Street, Springfield, Tennessee.

(2) The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

PART I.

It is ordered, That respondent Robert Lewis Wilks, individually and doing business as Barber Funeral Home, and respondent's representatives, agents, employees, successors or assigns, directly or through any corporation, subsidiary, division or other device, shall forthwith cease and desist from transacting business as a funeral service provider or having any affiliation with any person or entity that sells or offers to sell funeral goods or services to the public.

PART II.

It is further ordered, That for a period of ten (10) years from the date of service of this order or the date of respondent's release from incarceration, should he be convicted of any crimes charged in the

indictments presented by the State of Tennessee, whichever occurs later, respondent shall promptly notify the Commission of any change of name, residence, business address, occupation, place of business, or place of employment. Respondent's notification shall be made by submitting a report in writing, by certified mail, to the Federal Trade Commission, Bureau of Consumer Protection, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, or to such other address as the Commission or its designated staff shall by written notice require.

The expiration of this notice provision shall not affect any other provision of this order.

IN THE MATTER OF

STRUCTURAL ENGINEERS ASSOCIATION OF
NORTHERN CALIFORNIA, INC.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3268. Complaint, Nov. 2, 1989—Decision, Nov. 2, 1989*

This consent order prohibits, among other things, an association of approximately 1,000 engineers from restricting truthful advertising, price competition, and the offering of services to clients of other engineers.

Appearances

For the Commission: *Ralph E. Stone* and *Jeffrey A. Klurfeld*.

For the respondent: *Paul Fartessa, (President)*, San Francisco, Ca.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the Structural Engineers Association of Northern California, Inc., a corporation, hereinafter sometimes referred to as respondent, has violated and is violating Section 5 of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent Structural Engineers Association of Northern California, Inc. ("SEAONC"), is a corporation formed pursuant to the laws of the State of California. SEAONC is a voluntary professional association of approximately 1,000 structural engineers who comprise over 70% of the Northern California licensed structural engineers and civil engineers who perform structural engineering. Its principal business office is at 217 Second Street, San Francisco, California.

PAR. 2. SEAONC's members are generally engaged in the business of providing structural engineering services for a fee. Except to the