

Complaint

IN THE MATTER OF

SERVICE CORPORATION INTERNATIONAL
AND
STEWART ENTERPRISES, INC.

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT AND
SECTION 7 OF THE CLAYTON ACT

Docket No. C-4423; File No. 131 0163

Complaint, December 20, 2013 – Decision, April 29, 2014

This consent order addresses the \$1.4 billion acquisition by Service Corporation International (“SCI”) of certain assets of Stewart Enterprises, Inc. The complaint alleges that the Merger, if consummated, would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act by removing an actual, direct, and substantial competitor from 29 funeral services markets, and 30 cemetery services markets. The consent order requires SCI and Stewart to divest 53 funeral homes in 29 local funeral services markets and 38 cemeteries in 30 local cemetery markets to acquirers who receive the approval of the Commission.

Participants

For the *Commission*: Lucas Ballet, Maggie DiMoscato, Jill M. Frumin, Jennifer Lee, Sean Pugh, Stephanie Reynolds, and Goldie Walker.

For the *Respondents*: Wayne Dale Collins and Jessica Delbaum, Shearman & Sterling LLP; and Amanda Wait, Hunton & Williams LLP; and Mark A. Cunningham, Jones Walker LLP.

COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act (“FTC Act”), and by virtue of the authority vested in it by said Acts, the Federal Trade Commission (“Commission”), having reason to believe that Respondent Service Corporation International (“SCI”), a corporation subject to the jurisdiction of the Commission, has agreed to acquire Respondent Stewart Enterprises, Inc. (“Stewart”), a corporation subject to the jurisdiction of the Commission, in violation of

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Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its Complaint, stating its charges as follows:

I. RESPONDENTS AND JURISDICTION

1. Respondent SCI is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas, with its corporate office and principal place of business located at 1929 Allen Parkway, Houston, Texas 77019. SCI, among other things, is engaged in the sale and provision of: (a) funeral services and associated products, and (b) cemetery services and associated products and property.

2. SCI owns and operates approximately 1,449 funeral-services locations, 374 cemeteries (including 213 combined funeral services/cemetery locations), and 100 crematories in 44 states and the District of Columbia. SCI's 2012 revenue from all operations totaled approximately \$2.41 billion.

3. SCI is, and at all relevant times has been, engaged in "commerce" as defined in Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

4. Respondent Stewart is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Louisiana, with its corporate office and principal place of business located at 1333 South Clearview Parkway, Jefferson, Louisiana 70121. Stewart, among other things, is engaged in the sale and provision of (a) funeral services and associated products, and (b) cemetery services and associated products and property.

5. Stewart owns and operates 217 funeral homes and 141 cemeteries in 24 states and Puerto Rico. For the 12 months ending October 31, 2013, Stewart's total revenues were approximately \$524.1 million.

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6. Stewart is, and at all relevant times has been, engaged in “commerce” as defined in Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

II. THE ACQUISITION

7. On May 29, 2013, SCI and Stewart executed an Agreement and Plan of Merger (the “Agreement”) pursuant to which SCI will acquire Stewart in a transaction valued at approximately \$1.4 billion (the “Merger”).

8. The Merger would combine the first and second largest funeral and cemetery services providers in North America. SCI and Stewart offer competing funeral and cemetery services in 98 metropolitan statistical areas (“MSAs”) located in 16 states, including 29 funeral services markets and 30 cemetery services markets where the Merger, if consummated, likely would substantially lessen competition.

III. THE RELEVANT PRODUCT MARKETS

A. Funeral Services and Associated Products

9. The provision and sale of funeral services and associated products (“funeral services”) constitutes a relevant product market in which to analyze the competitive effects of the Merger. Funeral services include all activities relating to the promotion, marketing, sale, and provision of funeral services and goods, including, but not limited to, goods and services used to remove, care for, and prepare bodies for burial; and goods and services used to arrange, supervise, or conduct the funeral ceremony. Funeral services do not include cremation services because consumers do not substitute cremation services for burial services based upon price, and the competitive conditions for cremation services are substantially different than for funeral services. Since consumers primarily choose their final disposition based on their personal or religious views, consumers generally do not view cremation services as a viable substitute for funeral services. Thus, a hypothetical monopolist of funeral services could profitably impose a small but significant and non-transitory

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increase in price (“SSNIP”) because most consumers would not switch to cremation services.

10. There are no products or services that are reasonably interchangeable with or viable substitutes for funeral services.

B. Cemetery Services and Associated Products and Property

11. The provision and sale of cemetery services and associated products and property (“cemetery services”) constitutes a relevant product market in which to analyze the competitive effects of the Merger. Cemetery services include all activities relating to the promotion, marketing, sale, and provision of property, goods, and services to provide for the final disposition of human remains in a cemetery, whether by burial, entombment in a mausoleum or crypt, disposition in a niche, or scattering of cremated remains on the cemetery grounds.

12. There are no products or services that are reasonably interchangeable with or viable substitutes for cemetery services.

13. In some local markets, certain funeral-service and cemetery-service locations cater to specific populations by focusing on the customs and rituals associated with one or more religious, ethnic, or cultural heritage groups. In such situations, the provision of funeral or cemetery services targeted to such populations may constitute distinct and relevant product markets.

IV. THE RELEVANT GEOGRAPHIC MARKETS

14. The 29 geographic markets in which to analyze the effects of the Merger with respect to funeral services are: (1) Mobile, Alabama; (2) Auburn, California; (3) East Los Angeles County, California (Catholic); (4) Los Angeles (Long Beach), California (Catholic); (5) Los Angeles (San Fernando Valley), California (Catholic); (6) Palmdale/Lancaster, California; (7) Northern San Diego, California; (8) Southern and Eastern San Diego, California; (9) Clearwater, Florida; (10) Jacksonville, Florida; (11) Miami-Dade County (Homestead), Florida; (12) Miami-Dade County (Miami), Florida; (13) Ocala, Florida; (14) Orlando, Florida; (15) Port St. Lucie, Florida; (16) Tampa, Florida

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(Hispanic); (17) Overland Park, Kansas; (18) South Kansas City, Kansas/Missouri; (19) New Orleans, Louisiana; (20) West Jackson, Mississippi; (21) North Kansas City, Missouri; (22) New Bern, North Carolina; (23) Raleigh, North Carolina; (24) Columbia, South Carolina; (25) Nashville, Tennessee; (26) Dallas, Texas; (27) Southeast Fort Worth, Texas; (28) Arlington-Alexandria, Virginia; and (29) Washington D.C./Maryland suburbs (Jewish).

15. The 30 geographic markets in which to analyze the effects of the Merger with respect to cemetery services are: (1) South San Diego, California; (2) Jacksonville, Florida; (3) Miami-Dade County, Florida; (4) Ocala, Florida; (5) West Orlando, Florida; (6) Port St. Lucie, Florida; (7) Spring Hill/Hudson, Florida; (8) St. Petersburg/Largo, Florida; (9) Tampa, Florida; (10) Atlanta (Cobb County), Georgia; (11) Atlanta (Fairburn/College Park), Georgia; (12) Atlanta (Henry County), Georgia; (13) New Orleans, Louisiana; (14) Annapolis, Maryland; (15) Baltimore, Maryland; (16) North Kansas City, Missouri; (17) South Kansas City, Kansas/Missouri; (18) High Point, North Carolina; (19) Raleigh, North Carolina; (20) Philadelphia, Pennsylvania; (21) Greenville, South Carolina; (22) Kingsport, Tennessee; (23) Knoxville, Tennessee; (24) Dallas, Texas; (25) South Dallas, Texas (African American); (26) Southeast Fort Worth, Texas; (27) Houston, Texas; (28) Northwest Richmond, Virginia; (29) South Richmond, Virginia; and (30) Kearneysville, West Virginia.

**V. MARKET STRUCTURE AND MARKET
CONCENTRATION**

16. Under the 2010 Department of Justice and Federal Trade Commission Horizontal Merger Guidelines (“Merger Guidelines”) and relevant case law, SCI’s acquisition of Stewart is presumptively unlawful in the markets for funeral and cemetery services in a total of 59 geographic markets. Under the Merger Guidelines’ standard measure of market concentration, the Herfindahl-Hirschman Index (“HHI”), an acquisition is presumed to create or enhance market power or facilitate its exercise if it increases the HHI by more than 200 points and results in a post-acquisition HHI that exceeds 2,500 points. The Merger creates market concentration levels well in excess of these thresholds.

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A. Funeral Services

17. The Merger will significantly increase concentration in numerous local markets for funeral services and will result in SCI controlling a substantial percentage of the market in each of the affected funeral services markets.

- a. Mobile, Alabama. The market for funeral services in Mobile is highly concentrated. The Respondents are close competitors and are differentiated from most other funeral homes in the market. Other competitors in the market will not constrain Respondents post-Merger.
- b. Auburn, California. The market for funeral services in Auburn is highly concentrated. The Merger will reduce from three to two the number of funeral services providers in the relevant area.
- c. East Los Angeles County, California. The market for Catholic funeral services is highly concentrated. The Respondents are close competitors and are differentiated from most other funeral homes by serving a significant number of Catholic consumers. The transaction will result in significant lost competition for Catholic funeral services in East Los Angeles County.
- d. Los Angeles (Long Beach), California. The market for Catholic funeral services is highly concentrated. The Respondents are close competitors and are differentiated from most other funeral homes by serving a significant number of Catholic consumers. The transaction will result in significant lost competition for Catholic funeral services in Long Beach.
- e. Los Angeles (San Fernando Valley), California. The market for Catholic funeral services is highly concentrated. The Respondents are close competitors and are differentiated from most other funeral homes

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by serving a significant number of Catholic consumers. The transaction will result in significant lost competition for Catholic funeral services in San Fernando Valley.

- f. Palmdale/Lancaster, California. The market for funeral services in Palmdale and Lancaster is highly concentrated. The Respondents are close competitors and are differentiated from most other funeral homes in the market. Post-Merger the Respondents would own three of the six funeral homes in the area. Other competitors are differentiated from Respondents' funeral homes in terms of quality.
- g. Northern San Diego, California. Post-Merger, SCI will have a market share of over 60 percent for funeral services, representing an HHI increase of over 1,400, in numerous areas in and around the Pacific Beach and Clairemont, California. The Merger will reduce the number of funeral providers in the Pacific Beach and Clairemont areas from five to four.
- h. Southern and Eastern San Diego, California. Post-Merger, SCI will have a market share of 57 percent for funeral services, representing a post-merger HHI increase of over 850, in numerous highly populated zip codes in southern and eastern San Diego.
- i. Clearwater, Florida. Post-Merger, SCI will have a market share of 52 percent. The Respondents are close competitors and are differentiated from most other funeral homes in the market. The remaining competitors are not nearly as close substitutes for Respondents' funeral homes as Respondents' funeral homes are for each other.
- j. Jacksonville, Florida. The market for funeral services in Jacksonville is highly concentrated. The Respondents are close competitors and are differentiated from most other funeral homes in the market. Respondents are close competitors while the

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remaining competitors are less competitively significant.

- k. Miami-Dade County (Homestead), Florida. In the Homestead area, south of Miami, the Merger will reduce the number of competitive funeral homes from two to one.
- l. Miami-Dade County (Miami), Florida. Post-Merger, SCI will have a market share of 51 percent in the Miami area. The Merger will increase the HHI by 1,292 points, from 1,732 to 3,024. The Respondents are close competitors and are differentiated from most other funeral homes in the market. The remaining competitors are not nearly as close substitutes for Respondents' funeral homes as Respondents' funeral homes are for each other.
- m. Ocala, Florida. Post-Merger, SCI will have a market share of 42 percent. The Merger will increase the HHI by 860 points, from 3,375 to 4,235. In addition, the Merger will reduce from four to three the number of funeral services providers in the relevant market.
- n. Orlando, Florida. Post-Merger, SCI will have a market share of 67 percent. The Respondents are close competitors and are differentiated from most other funeral homes in the market.
- o. Port St. Lucie, Florida. Post-Merger, SCI will have a market share of more than 72 percent. The remaining competitors are not nearly as close substitutes for Respondents' funeral homes as Respondents' funeral homes are for each other.
- p. Tampa, Florida. Post-Merger, SCI will have a 76 percent share of the Hispanic-focused market. The Respondents are close competitors and are differentiated from most other funeral homes in the market.

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- q. Overland Park, Kansas. The market for funeral services in Overland Park is highly concentrated. The Respondents are close competitors and are differentiated from most other funeral homes in the market.
- r. South Kansas City, Kansas/Missouri. The market for funeral services in South Kansas City is highly concentrated. Respondents are similarly-positioned competitors while the remaining competitors are more distant substitutes for the Respondents' facilities.
- s. New Orleans, Louisiana. Post-Merger, SCI will have a market share of 90 percent. The Merger will increase the HHI by 3,961 points, from 3,965 to 7,926. In addition, the Merger will reduce from three to two the number of funeral services providers in the relevant market.
- t. West Jackson, Mississippi. The Merger will reduce the number of competing providers of funeral services from three to two. The Respondents are close competitors and are differentiated from most other funeral homes in the market.
- u. North Kansas City, Missouri. The market for funeral services in North Kansas City is highly concentrated. Post-Merger, SCI will have a market share of over 60 percent. The Respondents are close competitors and are differentiated from most other funeral homes in the market. The remaining competitors will not constrain Respondents post-Merger.
- v. New Bern, North Carolina. Post-Merger, SCI will have a market share of 100 percent. The Merger is a merger-to-monopoly, reducing the number of funeral services providers in the relevant market from two to one. The only other funeral homes in the area do not compete closely with Respondents' homes because they cater to African-American customers.

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- w. Raleigh, North Carolina. Post-Merger, SCI will have a market share of 51 percent. The Merger will increase the HHI by 667 points, from 2,924 to 3,591.
- x. Columbia, South Carolina. The market for funeral services in western Columbia is highly concentrated. The Respondents are close competitors and are differentiated from most other funeral homes in the market. The remaining competitors are not nearly as close substitutes for Respondents' funeral homes as Respondents' funeral homes are for each other.
- y. Nashville, Tennessee. Post-Merger, SCI will have a market share of 42 percent. The Merger will increase the HHI by 499 points, from 1,785 to 2,284. The remaining local competitors are insufficient to constrain the merged firm and would not prevent competitive harm from resulting from the Merger.
- z. Dallas, Texas. The market for funeral services in the Dallas area is highly concentrated. Together, Respondents own 20 funeral homes in the market including the dominant funeral home with the largest call volume. The Respondents are close competitors and are differentiated from most other funeral homes in the market including on price.
- aa. Southeast Fort Worth, Texas. The market for funeral services in Southeast Fort Worth is highly concentrated. The Merger will reduce from four to three the number of funeral services providers in the relevant market. The Respondents are close competitors, offering large, well-maintained facilities serving a similar customer base, and are differentiated from most other funeral homes in the market.
- bb. Arlington-Alexandria, Virginia. The market for funeral services in the Arlington-Alexandria area is highly concentrated. Post-Merger, SCI will own six of the eight funeral homes in the area. Other funeral

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homes are not nearly as close substitutes for Respondents' facilities.

- cc. Washington, D.C./Maryland Suburbs. Post-Merger, SCI will have a market share of 68 percent of the market for Jewish funeral services. The Merger will increase the HHI by 2,038 points, from 3,625 to 5,662. The Merger will reduce from three to two the number of current providers of Jewish funeral services in the relevant market.

B. Cemetery Services

18. The Merger will significantly increase concentration in numerous local markets for cemetery services and will result in SCI controlling a substantial percentage of the market in each of the affected cemetery services markets.

- a. South San Diego, California. Post-Merger, SCI will have a market share of 70 percent. The Merger will increase the HHI by 2,381 points, from 2,832 to 5,213.
- b. Jacksonville, Florida. The market for cemetery services in Jacksonville is highly concentrated. The Respondents are close competitors and are differentiated from most other cemeteries in the market. The remaining competitors are not nearly as close substitutes for Respondents' cemeteries as Respondents' cemeteries are for each other.
- c. Miami-Dade County, Florida. The Merger will reduce the number of competitive providers of cemetery services in the Miami area from five to four, with SCI owning six of the ten private perpetual-care cemeteries in the area. Post-Merger, SCI will have a market share of 53 percent. Respondents are close competitors while the remaining competitors are not close substitutes for the Respondents' facilities.
- d. Ocala, Florida. The market for cemetery services in Ocala is highly concentrated. Post-Merger, SCI will

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own two of the three competitively significant private perpetual-care cemeteries in the market. Respondents are close competitors while the remaining competitors are not close substitutes for the Respondents' facilities.

- e. West Orlando, Florida. The market for cemetery services in the West Orlando area is highly concentrated. The Respondents are close competitors and own a majority of the private cemeteries in the market. The remaining competitors are not nearly as close substitutes for Respondents' cemeteries as Respondents' cemeteries are for each other.
- f. Port St. Lucie, Florida. The Merger will reduce the number of competitively-significant providers of cemetery services in the Port St. Lucie area from four to three. The Respondents are close competitors and are differentiated from most other cemeteries in the market. The remaining competitors are not nearly as close substitutes for Respondents' cemeteries as Respondents' cemeteries are for each other.
- g. Spring Hill/Hudson, Florida. The market for cemetery services in the Spring Hill/Hudson area is highly concentrated. The Merger reduces the number of competitively significant cemeteries from three to two. The Respondents are close competitors and are differentiated from most other cemeteries in the market. The remaining competitors are not nearly as close substitutes for Respondents' cemeteries as Respondents' cemeteries are for each other.
- h. St. Petersburg/Largo, Florida. Post-Merger, SCI will own four of the five competitive private perpetual care cemeteries in the market. The Respondents are close competitors and are differentiated from most other cemeteries in the market. There is only one other meaningful, but differentiated, competitor in the area.
- i. Tampa, Florida. The market for cemetery services in the central Tampa area is highly concentrated. The

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Respondents are close competitors and are differentiated from most other cemeteries in the market. The remaining competitors are not nearly as close substitutes for Respondents' cemeteries because third-party cemeteries lower quality and cater to specific ethnic groups.

- j. Atlanta, Georgia. In each of the three relevant geographic markets in the Atlanta area, Cobb County, Fairburn/College Park, and Henry County, the market for cemetery services is highly concentrated. The Respondents own 20 cemeteries in the area, are close competitors, and are differentiated from most other cemeteries in each relevant geographic market. The remaining competitors are not nearly as close substitutes for Respondents' cemeteries as Respondents' cemeteries are for each other.
- k. New Orleans, Louisiana. Post-Merger, SCI will have a market share of 66 percent. The Merger will increase the HHI by 1,823 points, from 2,584 to 4,407. Only one third-party firm operates a competitively significant cemetery in this market.
- l. Annapolis, Maryland. Post-Merger, SCI will have a market share of 66 percent. The Merger will increase the HHI by 2,125 points, from 2,672 to 4,797. In addition, the Merger will reduce from four to three the number of cemetery services providers in the relevant market.
- m. Baltimore, Maryland. Post-Merger, SCI will have a market share of 48 percent. The Merger will increase the HHI by 1,024 points, from 2,315 to 3,339. The remaining local competitors are insufficient to constrain the merged firm and would not prevent competitive harm from resulting from the Merger.
- n. North Kansas City, Missouri. Post-Merger, SCI will have a market share of 68 percent. The Merger will increase the HHI by 2,145 points, from 2,687 to 4,832.

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- o. South Kansas City, Kansas/Missouri. The market for cemetery services in South Kansas City is highly concentrated. The Respondents are close competitors, own the dominant, most prestigious cemeteries in the market, and are differentiated from most other cemeteries in the market.
- p. High Point, North Carolina. Post-Merger, SCI will have a market share of 69 percent. The Merger will increase the HHI by 2,389 points, from 2,973 to 5,362. In addition, the Merger will reduce from four to three the number of cemetery services providers in the relevant market.
- q. Raleigh, North Carolina. Post-Merger, SCI will have a market share of over 70 percent. Respondents are close competitors in this market and the Merger will reduce the number of cemetery services providers in the relevant market from five to four.
- r. Philadelphia, Pennsylvania. The market for cemetery services in Philadelphia is highly concentrated. The Respondents own five of the largest, most prominent cemeteries and they are close competitors. The remaining competitors include the various Catholic cemeteries that are not close substitutes for Respondents' cemeteries.
- s. Greenville, South Carolina. The market for cemetery services in the relevant geographic market in the Greenville area is highly concentrated. The Merger will reduce the number of competitively significant providers of cemetery services in this relevant market from three to two.
- t. Kingsport, Tennessee. Post-Merger, SCI will have a market share of 85 percent. The Merger will increase the HHI by 3,559 points, from 3,757 to 7,316. In addition, the Merger will reduce from four to three the number of cemetery services providers in the relevant market.

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- u. Knoxville, Tennessee. The Merger will reduce the number of competitive providers of cemetery services from four to three. The Respondents are close competitors and are differentiated from most other cemeteries in the market.
- v. Dallas, Texas. The market for cemetery services in Dallas is highly concentrated. The Respondents own 13 cemeteries in the market, including the dominant cemetery with the most annual internments. The Respondents are close competitors while the remaining competitors are not as geographically close or competitively significant.
- w. South Dallas, Texas. Post-Merger, SCI will have a market share above 90 percent for African-American cemetery services in South Dallas. No other cemetery in South Dallas is a close substitute for Respondents' cemeteries.
- x. Southeast Fort Worth, Texas. The market for cemetery services in Southeast Fort Worth is highly concentrated. The Merger will reduce from four to three the number of cemetery services providers in the relevant market. The Respondents are close competitors serving a similar customer base and offering high-quality cemeteries.
- y. Houston, Texas. The market for cemetery services in Houston is highly concentrated. The Respondents are close competitors and are differentiated from most other cemeteries in the market.
- z. Northwest Richmond, Virginia. The market for cemetery services in Northwest Richmond is highly concentrated. The Respondents are close competitors and are differentiated from most other cemeteries in the market.
- aa. South Richmond, Virginia. The market for cemetery services in South Richmond is highly concentrated.

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The Respondents are close competitors and are differentiated from most other cemeteries in the market.

- bb. Kearneysville, West Virginia. The Merger will reduce the number of competitive providers of cemetery services from three to two. The Respondents are close competitors and are differentiated from the other cemetery in the market.

VI. ANTICOMPETITIVE EFFECTS

19. The Merger may substantially lessen competition in the relevant markets by, among other things:

- a. Eliminating actual, direct, and substantial competition between SCI and Stewart;
- b. Increasing the likelihood that SCI will exercise market power unilaterally; and
- c. Increasing the likelihood of collusion or coordinated interaction between SCI and other funeral or cemetery services providers.

VII. ENTRY CONDITIONS

20. Entry into the relevant markets would not be timely, likely, or sufficient to prevent or defeat the likely anticompetitive effects of the Merger.

21. Among other entry barriers, heritage (the consumer's tendency to use the same funeral services provider for multiple generations) and reputation pose substantial barriers to entrants attempting to establish new funeral services locations.

22. The availability of suitable land and local zoning, health, and environmental regulations impact significantly the ability of firms to enter with new cemetery services locations.

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VIII. VIOLATIONS

23. The allegations of Paragraph 1 through 22 are repeated and realleged as though fully set forth here.

24. The Agreement described in Paragraph 7 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

25. The Merger described in Paragraph 7, if consummated, would constitute a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twentieth day of December, 2013, issues its Complaint against said Respondents.

By the Commission.

ORDER TO HOLD SEPARATE AND MAINTAIN ASSETS [Public Record Version]

The Federal Trade Commission, having initiated an investigation of the proposed acquisition by Respondent Service Corporation International (“SCI”) of the outstanding voting securities of Respondent Stewart Enterprises, Inc. (“Stewart”), and Respondents having been furnished thereafter with a copy of a draft of complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

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Respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing consent orders (“Consent Agreement”), an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondents have violated the said Acts, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following Order to Hold Separate and Maintain Assets (“Hold Separate Order”):

1. Respondent Service Corporation International is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Texas, with its office and principal place of business located at 1929 Allen Parkway, Houston, Texas 77019.
2. Respondent Stewart Enterprises, Inc., is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Louisiana, with its office and principal place of business located at 1333 South Clearview Parkway, Jefferson, Louisiana 70121.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents and the proceeding is in the public interest.

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ORDER

I.

IT IS HEREBY ORDERED that, as used in this Hold Separate Order, the following definitions, and all other definitions used in the Consent Agreement and Decision and Order, shall apply:

- A. “SCI” means Service Corporation International, its directors, officers, employees, agents, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates in each case controlled by Service Corporation International (including, after the Acquisition, Stewart), and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. “Stewart” means Stewart Enterprises, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates in each case controlled by Stewart Enterprises, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. “Commission” means the Federal Trade Commission.
- D. “Acquisition” means the proposed acquisition described in the Agreement and Plan of Merger among Service Corporation International, RIO Acquisition Corp. and Stewart Enterprises, Inc., dated as of May 28, 2013.
- E. “Acquisition Date” means the date the Acquisition is consummated.
- F. “Cemetery Services” means all activities relating to the promotion, marketing, sale, and provision of property, goods and services, to provide for the final disposition of human remains in a cemetery, whether

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by burial, entombment in a mausoleum or crypt, disposition in a niche, or scattering of cremated remains on the cemetery grounds.

- G. “Confidential Information” means competitively sensitive, proprietary, and all other business information of any kind, including any and all of the following information:
1. all information that is a trade secret under applicable trade secret or other law;
 2. all information concerning product specifications, data, know-how, formulae, compositions, processes, designs, sketches, photographs, graphs, drawings, samples, inventions and ideas, past, current and planned research and development, current and planned manufacturing or distribution methods and processes, customer lists, current and anticipated customer requirements, price lists, market studies, business plans, software, and computer software and database technologies, systems, structures, and architectures;
 3. all information concerning the relevant business (which includes historical and current financial statements, financial projections and budgets, tax returns and accountants’ materials, historical, current and projected sales, capital spending budgets and plans, business plans, strategic plans, marketing and advertising plans, publications, client and customer lists and files, contracts, the names and backgrounds of key personnel and personnel training techniques and materials); and
 4. all notes, analyses, compilations, studies, summaries, and other material to the extent containing or based, in whole or in part, upon any of the information described above;

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Provided, however, that Confidential Information shall not include information that (i) was, is, or becomes generally available to the public other than as a result of a breach of this Order; (ii) was or is developed independently of and without reference to any Confidential Information; or (iii) was available, or becomes available, on a non-confidential basis from a third party not bound by a confidentiality agreement or any legal, fiduciary, or other obligation restricting disclosure.

- H. “Decision and Order” means the:
1. Proposed Decision and Order contained in the Consent Agreement in this matter until the issuance and service of a final Decision and Order by the Commission, and
 2. Final Decision and Order issued by the Commission following the issuance and service of a final Decision and Order by the Commission.
- I. “Direct Cost” means the actual cost of labor, including employee benefits, materials, resources, travel expenses, services, the actual cost of any third-party charges, and other expenditures to the extent the costs are directly incurred to provide the relevant assistance or service.
- J. “Divestiture Agreement” means any agreement between Respondents (or between a Divestiture Trustee) and an Acquirer to divest the Divestiture Assets, or otherwise to accomplish the requirements of the Decision and Order, and all amendments, exhibits, attachments, agreements and schedules thereto, that have been approved by the Commission to accomplish the requirements of the Decision and Order.
- K. “Divestiture Assets” means the assets defined in Paragraph I.M. of the Decision and Order.

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- L. “Divestiture Business” means the business defined in Paragraph I.N. of the Decision and Order.
- M. “Divestiture Business Employee” means any individual (i) who is or was employed by Respondents on a full-time, part-time, or contract basis as of the Acquisition Date and (ii) whose job responsibilities related primarily to the Divestiture Business at any time as of and after the date of the announcement of the Acquisition.
- N. “Employee Information” means employment information relating to any Divestiture Business Employee, to the extent permitted by law, including, but not limited to, name, job title or position, date of hire, description of job responsibilities, salary or current wages, the most recent bonus paid, employment status (*i.e.*, active or on leave or disability; full-time or part-time; contract), any other material terms and conditions of employment in regard to such employee that are not otherwise generally available to similarly situated employees, and employee benefit plans.
- O. “Final Report” means the report described in Paragraph III.C.(ii) of this Hold Separate Order.
- P. “Funeral Services” means all activities relating to the promotion, marketing, sale, and provision of funeral services and funeral goods, including, but not limited to, goods and services used to remove, care for, and prepare bodies for burial, cremation, or other final disposition; and goods and services used to arrange, supervise, or conduct the funeral ceremony or final disposition of human remains.
- Q. “Hold Separate Assets” means the Divestiture Assets relating to the operation of the Divestiture Business at the locations identified in Appendix A of this Hold Separate Order.

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- R. “Hold Separate Business” means (i) the Hold Separate Assets, (ii) the Hold Separate Employees, and (iii) the Divestiture Business conducted at the locations identified in Appendix A of this Hold Separate Order.
- S. “Hold Separate Employees” means the Divestiture Business Employees identified on the organizational chart attached to this Hold Separate Order as Confidential Appendix B.
- T. “Hold Separate Manager(s)” means the individual(s) identified in Paragraph IV.A. of this Hold Separate Order.
- U. “Hold Separate Trustee” means the individual identified in Paragraph III.A. of this Hold Separate Order.
- V. “Key Employee” means any (i) funeral home Divestiture Businesses Employee whose job title is funeral director, location manager, or other job title with responsibilities similar to those of funeral director or location manager, and (ii) cemetery Divestiture Businesses Employee whose job responsibilities include management of a cemetery.
- W. “Person” means any individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture, or other entity or a governmental body.
- X. “Preparation Services” means transportation of human remains, embalming, cosmetizing, and other preparation of human remains for a funeral service, burial service, or cremation as well as the cremation of human remains.
- Y. “Prospective Acquirer” means a Person that Respondents (or the Divestiture Trustee) intend to submit to the Commission for its prior approval to

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acquire Divestiture Assets pursuant to Paragraph II (or Paragraph IV) of the Decision and Order.

- Z. “Respondents” means SCI and Stewart, individually and collectively; *provided, however*, that after the Acquisition Date, Respondents shall mean SCI.
- AA. “Support Services” means Preparation Services, administrative and technical services that Respondents provide to the Divestiture Business and Divestiture Assets that are not performed by employees who are permanently located at any of the Divestiture Businesses, including, but not limited to (i) human resources and administrative services, (ii) federal and state regulatory compliance and policy development services, (iii) environmental health and safety services, (iv) financial accounting services, (v) preparation of tax returns, (vi) audit services, (vii) information technology support services, (viii) processing of accounts payable and accounts receivable, (ix) technical support, (x) procurement of supplies, (xi) maintenance and repair of facilities, (xii) legal services, or (xiii) other support services as needed to operate the Hold Separate Business in the same manner as before the Acquisition Date.
- BB. “Support Services Employee” means any individual employed by Respondents who pro-vides Support Services to the Hold Separate Business pursuant to Paragraph V.C. of this Hold Separate Order.

II.

IT IS FURTHER ORDERED that from the Acquisition Date until the date that Respondents (or a Divestiture Trustee) have divested the Hold Separate Assets, Respondents shall:

- A. Hold the Hold Separate Business separate, apart, and independent of Respondents’ other businesses and assets as required by this Hold Separate Order and shall vest the Hold Separate Business with all rights,

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powers, and authority necessary to conduct its business; and

- B. Not exercise direction or control over, or influence directly or indirectly, the Hold Separate Business or any of its operations, the Hold Separate Trustee, or the Hold Separate Managers except to the extent that Respondents must exercise direction and control over the Hold Separate Business as is necessary to assure compliance with this Hold Separate Order, the Consent Agreement, the Decision and Order, and all applicable laws.

III.**IT IS FURTHER ORDERED** that:

- A. At any time after Respondents sign the Consent Agreement, the Commission may appoint Paul A. Houston to serve as Hold Separate Trustee.
- B. Respondents shall enter into an agreement with the Hold Separate Trustee, subject to the prior approval of the Commission, that (i) shall become effective no later than one (1) day after the Acquisition Date, and (ii) transfers to and confers upon the Hold Separate Trustee all rights, powers, and authority necessary to permit the Hold Separate Trustee to perform his duties and responsibilities pursuant to this Hold Separate Order in a manner consistent with the purposes of this Hold Separate Order and the Decision and Order, and in consultation with Commission staff, including:
 - 1. The Hold Separate Trustee shall be responsible for (i) monitoring the organization of the Hold Separate Business, (ii) supervising the management of the Hold Separate Business by the Hold Separate Managers, (iii) maintaining the independence of the Hold Separate Business and Hold Separate Managers, and (iv) monitoring Respondents' compliance with its obligations

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under this Hold Separate Order and the Decision and Order, and (v) shall act in a fiduciary capacity for the benefit of the Commission;

2. Subject to all applicable laws and regulations, the Hold Separate Trustee shall have full and complete access to all personnel, books, records, documents, and facilities of the Hold Separate Business, and to any other relevant information as the Hold Separate Trustee may reasonably request including, but not limited to, all documents and records kept by Respondents in the ordinary course of business that relate to the Hold Separate Business. Respondents shall develop such financial or other information as the Hold Separate Trustee may reasonably request and shall cooperate with the Hold Separate Trustee;
3. The Hold Separate Trustee (i) shall serve at the expense of Respondents and without bond or other security, on reasonable and customary terms and conditions commensurate with the Hold Separate Trustee's experience and responsibilities, and (ii) shall have the authority to employ, at the expense of Respondents, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Hold Separate Trustee's duties and responsibilities;
4. Respondents shall indemnify the Hold Separate Trustee and hold him harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of his duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from the Hold Separate Trustee's gross negligence or willful misconduct; and

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5. Respondents may require the Hold Separate Trustee and each of the Hold Separate Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement; *provided, however*, that such agreement shall not restrict the Hold Separate Trustee from providing any information to the Commission.
- C. The Hold Separate Trustee shall report in writing to the Commission (i) every thirty (30) days after the Acquisition Date, (ii) no later than ten (10) days after Respondents have completed their obligations under Paragraphs II.A. and II.F. of the Decision and Order; and (iii) at such other time as Commission staff may request, concerning Respondents' compliance with this Hold Separate Order and the Decision and Order.
- D. The Hold Separate Trustee shall serve until termination of this Hold Separate Order; *provided, however*, that if the Hold Separate Trustee ceases to act or fails to act diligently and consistently with the purposes of this Hold Separate Order, the Commission may appoint a substitute Hold Separate Trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld:
1. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of the substitute Hold Separate Trustee within five (5) days after notice by the staff of the Commission to Respondents of the identity of any substitute Hold Separate Trustee, then Respondents shall be deemed to have consented to the selection of the proposed substitute trustee; and
 2. Respondents shall, no later than five (5) days after the Commission appoints a substitute Hold Separate Trustee, enter into an agreement with the substitute Hold Separate Trustee that, subject to the approval of the Commission, confers on the

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substitute Hold Separate Trustee all the rights, powers, and authority necessary to permit the substitute Hold Separate Trustee to perform his or her duties and responsibilities pursuant to this Hold Separate Order on the terms and conditions as provided in this Paragraph III.

- E. The Commission may extend or modify the duties of the Hold Separate Trustee as may be necessary or appropriate to accomplish the purposes of this Hold Separate Order or the Decision and Order.

IV.**IT IS FURTHER ORDERED** that:

- A. No later than one (1) day after the Acquisition Date, Respondents shall appoint one or more individuals to serve as Hold Separate Managers (collectively the “Hold Separate Managers”).
- B. Respondents shall enter into an agreement with the Hold Separate Managers that (i) shall become effective no later than one (1) day after the Acquisition Date, and (ii) subject to the approval of the Hold Separate Trustee, in consultation with the Commission staff, transfers all rights, powers, and authority necessary to permit the Hold Separate Managers to perform their duties on the terms set forth in this Hold Separate Order:
1. The Hold Separate Managers shall manage the Hold Separate Business (i) in the ordinary course of business consistent with past practices and pursuant to current business plans, (ii) independently of the management of Respondents and their other businesses, and (iii) under the exclusive direction of the Hold Separate Trustee, to whom the Hold Separate Managers shall report directly.

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2. Respondents shall provide the Hold Separate Managers with reasonable financial incentives to undertake this position. Such incentives shall include a continuation of all employee benefits, including regularly scheduled raises, bonuses, vesting of retirement benefits (as permitted by law), and additional incentives as may be necessary;
3. The Hold Separate Managers (i) shall serve at the expense of Respondents and without bond or other security, on reasonable and customary terms commensurate with the Hold Separate Managers' experience and responsibilities; and (ii) shall have the authority to employ, in consultation with the Hold Separate Trustee, at the expense of Respondents, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to assist the Hold Separate Managers in carrying out their duties and responsibilities;
4. Respondents shall indemnify the Hold Separate Managers and hold them harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of their duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from the Hold Separate Managers' gross negligence or willful misconduct; and
5. Respondents shall assure that Commission staff shall have access to, and be permitted to communicate with, contact, and be contacted by the Hold Separate Managers without prior notice to Respondents or the presence of Respondents'

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employees or counsel, except as expressly required by law.

- C. The Hold Separate Managers shall manage the Hold Separate Business in the ordinary course of business consistent with past practices and pursuant to current business plans. The Hold Separate Managers shall, among other requirements:
1. Use best efforts to maintain and increase sales in the ordinary course of the Hold Separate Business and at levels set forth in current plans for the Hold Separate Business;
 2. Use best efforts to maintain the relations and good will with suppliers, customers, landlords, creditors, agents, and others having business relationships with the Hold Separate Business; and
 3. Not make any material changes in the ongoing operations or business plans of the Hold Separate Business, except with the approval of the Hold Separate Trustee, in consultation with the Commission staff.
- D. The Hold Separate Managers shall supervise the activities of the Hold Separate Employees and shall have the authority, in consultation with the Hold Separate Trustee, to staff the Hold Separate Business with sufficient employees to maintain the viability and competitiveness of the Hold Separate Business. The Hold Separate Managers shall, among other requirements:
1. Replace any departing or departed Hold Separate Employee with an individual who has similar experience and expertise or determine not to replace such departing or departed employee;
 2. Remove any Hold Separate Employee who ceases to act or fails to act diligently and consistent with

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the purposes of this Hold Separate Order and replace such employee with another individual of similar experience or skills;

3. Provide each Hold Separate Employee with reasonable financial incentives, if necessary, including continuation of all employee benefits and regularly scheduled raises and bonuses, to continue in his or her position pending divestiture of the Divestiture Assets;
 4. Obtain from each Hold Separate Employee a signed statement that the individual will keep confidential all Confidential Information relating to the Hold Separate Business; and
 5. Not permit any Hold Separate Employee to (i) be involved in any way in the operations of Respondents' other businesses (for clarification, the Hold Separate Manager may permit a Hold Separate Business to provide Preparation Services for Respondent's other businesses in the same fashion as those Preparation Services were provided by the applicable Hold Separate Business prior to the Acquisition Date) or (ii) receive or have access to, or use or continue to use, any Confidential Information relating to Respondents' other businesses.
- E. The Hold Separate Managers shall allow the Acquirer or Prospective Acquirer an opportunity to identify, recruit, and hire any Divestiture Business Employee, including complying as appropriate with the obligations set forth in Paragraph V.F. of this Hold Separate Order and Paragraph II.H. of the Decision and Order.
- F. The Hold Separate Managers shall serve until termination of the Hold Separate Order; *provided, however*, that the Hold Separate Managers may be removed for cause by the Hold Separate Trustee in

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consultation with the Commission staff. If a Hold Separate Manager is removed, resigns, or otherwise ceases to act as Hold Separate Manager, Respondents shall, within three (3) days after such termination, (i) appoint a substitute Hold Separate Manager and (ii) enter into an agreement with the substitute Hold Separate Manager, subject to the approval of the Hold Separate Trustee and in consultation with Commission staff, on the terms and conditions as provided in Paragraph IV. of this Hold Separate Order.

V.**IT IS FURTHER ORDERED** that:

- A. Respondents shall not take any affirmative action, or fail to take any action within its control (other than conducting Respondents' own businesses in the ordinary course of business), as a result of which the viability, competitiveness, or marketability of the Hold Separate Business would be diminished or the divestiture of the Divestiture Assets jeopardized.
- B. Respondents shall cooperate with, and take no action to interfere with the ability of, the Hold Separate Trustee, Hold Separate Managers, any Hold Separate Employee, or any Support Services Employee to perform their duties and responsibilities pursuant to this Hold Separate Order.
- C. Respondents shall continue to provide, or offer to provide, Support Services and goods to the Hold Separate Business as are being provided to such business by Respondents as of the date the Consent Agreement is signed by Respondents:
 - 1. For Support Services and goods that Respondents provided to the Hold Separate Business as of the date Respondents sign the Consent Agreement, Respondents may charge no more than the same price, if any, charged by Respondents for such

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Support Services and goods as of the date the Consent Agreement is signed by Respondents;

2. For any other Support Services and goods that Respondents may provide to the Hold Separate Business, Respondents may charge no more than Respondents' Direct Cost for the same or similar Support Services and goods; and
 3. Notwithstanding the above, the Hold Separate Business shall have, at the option of the Hold Separate Managers and in consultation with the Hold Separate Trustee, the ability to acquire Support Services and goods from third parties unaffiliated with Respondents.
- D. Respondents shall provide the Hold Separate Business with sufficient financial and other resources as are appropriate in the judgment of the Hold Separate Trustee to:
1. Operate the Hold Separate Business at least at the current rate of operation and staffing (including efforts to generate new business) and to carry out, at least at their scheduled pace, all business plans and promotional activities in place prior to the Acquisition;
 2. Perform all maintenance to, and replacements or remodeling of, the assets of the Hold Separate Business in the ordinary course of business and in accordance with past practice and current plans;
 3. Carry on such capital projects, physical plant improvements, and business plans as are already underway or planned for which all necessary regulatory and legal approvals have been obtained, including but not limited to existing or planned renovation, remodeling, or expansion projects; and

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4. Maintain the viability, competitiveness, and marketability of the Hold Separate Business.

Such financial resources to be provided to the Hold Separate Business shall include, but shall not be limited to, (i) general funds, (ii) capital, (iii) working capital, and (iv) re-imbursement for any operating losses, capital losses, or other losses; *provided, however*, that, consistent with the purposes of the Decision and Order and in consultation with the Hold Separate Trustee, the Hold Separate Managers may reduce in scale or pace any capital or research and development project, or substitute any capital or research and development project for another of the same cost.

E. Respondents shall not permit:

1. The Hold Separate Managers or any Hold Separate Employee to be involved, in any way, in the operations of any of Respondents' businesses other than the Hold Separate Business (for clarification, the Hold Separate Manager may permit, and a Hold Separate Employee may provide, Preparation Services for Respondents' businesses, other than the Hold Separate Businesses in the same fashion as those Preparation Services were provided by the applicable Hold Separate Business prior to the Acquisition Date); or
2. Any of its employees, officers, agents, or directors (i) to be involved in the operations of the Hold Separate Business, except to the extent otherwise provided in this Hold Separate Order, (ii) to disclose Confidential Information relating to Respondents' retained businesses to the Hold Separate Managers or any Hold Separate Employee, or (iii) receive or have access to, or use or continue to use, any Confidential Information relating to the Hold Separate Business.

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- F. Respondents shall allow an Acquirer or Prospective Acquirer an opportunity to recruit and employ any Divestiture Business Employee relating to the relevant Divestiture Business and Divestiture Assets under the following terms and conditions:
1. No later than ten (10) days after a request from an Acquirer or Prospective Acquirer, or Commission staff, Respondents shall (i) identify each Divestiture Business Employee, (ii) provide the Employee Information for each Divestiture Business Employee; (iii) allow the Acquirer or Prospective Acquirer an opportunity to meet personally with and interview such employee outside the presence or hearing of Respondents, and (iv) allow the Acquirer to inspect the personnel files and other documentation relating to any such employee, to the extent permissible under applicable laws;
 2. Respondents shall (i) not offer any incentive to any Divestiture Business Employee to decline employment with the Acquirer or Prospective Acquirer, (ii) remove any contractual impediments with Respondents that may deter any Divestiture Business Employee from accepting employment with the Acquirer or Prospective Acquirer, including, but not limited to, any non-compete or confidentiality provisions of employment or other contracts with Respondents that would affect the ability of such employee to be employed by the Acquirer or Prospective Acquirer, and (iii) not otherwise interfere with the recruitment, hiring, or employment of any Divestiture Business Employee by the Acquirer or Prospective Acquirer;
 3. Respondents shall (i) vest all current and accrued pension benefits as of the date of transition of employment with the Acquirer for any Divestiture Business Employee who accepts an offer of employment from the Acquirer or Prospective

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Acquirer no later than thirty (30) days from the date Respondents divest the relevant assets and, if necessary, (ii) provide any Key Employee to whom the Acquirer or Prospective Acquirer has made an offer of employment with reasonable financial incentives to accept a position with the Acquirer or Prospective Acquirer at the time of divestiture of the corresponding businesses and assets; and

4. For a period of two (2) years commencing at the date of divestiture applicable to the relevant business within the Divestiture Businesses, Respondents shall not, directly or indirectly, solicit, induce, or attempt to solicit or induce any Divestiture Business Employee who has accepted offers of employment with the Acquirer, or who is employed by the Acquirer, to terminate their employment relationship with the Acquirer; *provided, however*, a violation of this provision will not occur if: (1) the individual's employment has been terminated by the Acquirer, (2) Respondents advertise for employees in newspapers, trade publications, or other media not targeted specifically at the employees, or (3) Respondents hire employees who apply for employment with Respondents, so long as such employees were not solicited by Respondents in violation of this paragraph.

G. No later than five (5) days after the Acquisition Date, Respondents shall:

1. Establish and implement written procedures, subject to the approval of the Hold Separate Trustee, covering the management, maintenance, and independence of the Hold Separate Business consistent with the provisions of this Hold Separate Order; and
2. Circulate to each Hold Separate Employee and to individuals who are employed in Respondents'

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businesses that compete with the Hold Separate Business, a notice of this Hold Separate Order and the Consent Agreement, in a form approved by the Hold Separate Trustee and in consultation with Commission staff.

VI.**IT IS FURTHER ORDERED** that:

- A. Respondents shall (i) keep confidential (including as to Respondents' employees) and (ii) not use for any reason or purpose, any Confidential Information received or maintained by Respondents relating to the Divestiture Business or Divestiture Assets; *provided, however*, that Respondents may disclose or use such Confidential Information in the course of:
1. Performing their obligations or as permitted under this Order, the Hold Separate Order, or any Divestiture Agreement (Hold Separate Employees and Support Services Employees shall be deemed to be performing obligations under this Hold Separate Order); or
 2. Complying with financial reporting requirements, obtaining legal advice, de-fending legal claims, investigations, or enforcing actions threatened or brought against the Divestiture Business or Divestiture Assets, or as required by law.
- B. If disclosure or use of any Confidential Information is permitted to Respondents' employees or to any other Person under Paragraph VI.A. of this Hold Separate Order, Respondents shall limit such disclosure or use (i) only to the extent such information is required, (ii) only to those employees or Persons who require such information for the purposes permitted under Paragraph VI.A., and (iii) only after such employees or Persons have signed an agreement to maintain the confidentiality of such information.

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- C. Respondents shall enforce the terms of this Paragraph VI. as to its employees or any other Person, and take such action as is necessary to cause each of its employees and any other Person to comply with the terms of this Paragraph VI., including implementation of access and data controls, training of its employees, and all other actions that Respondents would take to protect its own trade secrets and proprietary information.

VII.**IT IS FURTHER ORDERED** that:

- A. The Commission may require that the Hold Separate Trustee and the Hold Separate Managers, as well as each of their consultants, accountants, attorneys, and other representatives and assistants, to sign an appropriate agreement to maintain the confidentiality of any information and materials obtained from (i) the Commission or (ii) the Hold Separate Business in connection with performance of such individuals' duties.
- B. Upon the request of the Hold Separate Trustee or Commission staff, Respondents shall obtain an agreement in writing, from any employee other than those identified in Paragraph VI.B.(iii) of this Order, to maintain the confidentiality of any Confidential Information pertaining to the Hold Separate Business.

VIII.

IT IS FURTHER ORDERED that the Commission may, on its own initiative or at the request of the Hold Separate Trustee, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Hold Separate Order.

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IX.

IT IS FURTHER ORDERED that from the date this Hold Separate Order is issued until the Acquisition Date, Respondents shall take all actions necessary to maintain the full economic viability, marketability, and competitiveness of the Divestiture Assets and Divestiture Business, and to prevent the destruction, removal, wasting, deterioration, or impairment of the Divestiture Assets and Divestiture Business (except for ordinary wear and tear).

X.

IT IS FURTHER ORDERED that the purpose of this Hold Separate Order is to (i) preserve the assets and businesses within the Hold Separate Business as a viable, competitive, and ongoing businesses independent of Respondents until the divestitures required by the Decision and Order is achieved; (ii) assure that no Confidential Information is exchanged between Respondents and the Hold Separate Business, except in accordance with the provisions of this Hold Separate Order; (iii) prevent interim harm to competition pending the divestitures and other relief, and (iv) maintain the full economic viability, marketability, and competitiveness of the Divestiture Business and Divestiture Assets, and prevent the destruction, removal, wasting, deterioration, or impairment of any of the Divestiture Assets, except for ordinary wear and tear.

XI.

IT IS FURTHER ORDERED that:

- A. Respondents shall file a verified written report with the Commission setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with this Order to Hold Separate and the Decision and Order no later than thirty (30) days from the date this Hold Separate Order is issued and every thirty (30) days thereafter until Respondents have fully complied with Paragraphs II.A. and II.F. of the Decision and Order.

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- B. With respect to any divestiture required by Paragraph II.A. of the Decision and Order, Respondents shall include in their compliance reports (i) the status of the divestiture and transfer of the Divestiture Assets; (ii) a description of all Transitional Services provided to each Acquirer; (iii) a description of all substantive contacts with each Acquirer; and (iv) any other actions taken by Respondents relating to compliance with the terms of this Order and/or any Divestiture Agreement, and (v) as applicable, a statement that any divestiture approved by the Commission has been accomplished, including a description of the manner in which Respondents completed such divestiture and the date the divestiture was accomplished.

XII.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to:

- A. Any proposed dissolution of Respondents;
- B. Any proposed acquisition, merger, or consolidation of Respondents; or
- C. Any other change in the Respondents, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of the Order.

XIII.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Hold Separate Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days' notice to Respondents, Respondents shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of the Respondents and in the presence of counsel, to all

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facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Respondents related to compliance with this Hold Separate Order, which copying services shall be provided by Respondents at their expense; and

- B. To interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

XIV.

IT IS FURTHER ORDERED that this Hold Separate Order shall terminate at the earlier of:

- A. Three (3) business days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34; or
- B. The later of the day after (i) the Hold Separate Trustee completes his Final Report relating to the completion of Respondents' obligations under Paragraphs II.A. and II.F. of the Decision and Order or (ii) the Commission otherwise directs that this Hold Separate Order is terminated.

By the Commission.

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Appendix A**SCI Properties To Be Held Separate**

State	Area	Owner	FH/ CEM	Property Name & Address
Alabama	Mobile	SCI	FH	Mobile Memorial Gardens Funeral Home 6040 Three Notch Road Mobile, Alabama 36619
California	Los Angeles (Long Beach)	SCI	FH	Lubyen Family Dilday-Motell Mortuary 5161 Arbor Road Long Beach, California 90808
California	Los Angeles (San Fernando Valley)	SCI	FH	Funeraria Del Angel JT Oswald 1001 North Maclay San Fernando, California 91340
California	Los Angeles (East Los Angeles County)	SCI	FH	Custer Christiansen Mortuary 124 S. Citrus Avenue Covina, California 91723
California	San Diego (Northern)	SCI	FH	Clairemont Mortuary 4266 Mt. Abernathy Avenue San Diego, California 92117
California	San Diego (Southern and Eastern)	SCI	FH/ CEM	Greenwood Memorial Park & Mortuary (c) 4300 Imperial Avenue San Diego, California 92113
Florida	Clearwater	SCI	FH	Moss Feaster Funeral Home – Dunedin 1320 Main Street Dunedin, Florida 34698
Florida	Clearwater	SCI	FH	Moss Feaster Funeral Home – Belcher Road 693 South Belcher Road Clearwater, Florida 33764
Florida	Miami-Dade (Miami)	SCI	FH	Funeraria Memorial Plan – San Jose 250 East 4 th Avenue Hialeah, Florida 33010
Florida	Miami-Dade (Miami)	SCI	FH	Funeraria Memorial Plan – Westchester 9800 SW 24 th Street Miami, Florida 33165
Florida	Miami (Homestead)	SCI	FH	Branam Funeral Home 809 North Krome Avenue Homestead, Florida 33030

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State	Area	Owner	FH/ CEM	Property Name & Address
Florida	Miami-Dade	SCI	CEM	Memorial Plan Flagler Memorial Park 5301 West Flagler Street Miami, Florida 33134
Florida	Miami-Dade	SCI	CEM	Memorial Plan Miami Memorial Park 6200 SW 77 th Avenue Miami, Florida 33143
Florida	Orlando	SCI	FH	Carey-Hand Cox Parker Funeral Home 1350 West Fairbanks Avenue Winter Park, Florida 32789
Florida	Orlando	SCI	FH	Colonial Chapel/Carey Hand 2811 East Curry Ford Road Orlando, Florida 32806
Florida	Orlando	SCI	FH	Collison Carey Hand Funeral Home 1148 East Plant Street Winter Garden, Florida 34787
Florida	Orlando (West)	SCI	CEM	Orlando Memorial Gardens 5264 Ingram Road Apopka, Florida 32703
Florida	Springhill/ Hudson	SCI	CEM	Grace Memorial Gardens & Funeral Home (c) 17007 US Highway 19 North Hudson, Florida 34667
Florida	Tampa	SCI	CEM	Sunset Funeral Home & Memory Gardens (c) 11005 N US Highway 301 Thonotosassa, Florida 33592
Louisiana	New Orleans	SCI	FH	Schoen Funeral Home 3827 Canal Street New Orleans, Louisiana 70119
Louisiana	New Orleans	SCI	FH	Tharp-Sontheimer-Tharp Funeral Home 1600 North Causeway Boulevard Metairie, Louisiana 70001
Louisiana	New Orleans	SCI	FH/ CEM	Garden of Memories Funeral Home & Cemetery (c) 4900 Airline Drive Metairie, Louisiana 70001
Maryland	Washington, DC/Maryland Suburbs	SCI	FH	Edward Sagel Funeral Direction Inc. 1091 Rockville Pike Rockville, Maryland 20852

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State	Area	Owner	FH/ CEM	Property Name & Address
Mississippi	West Jackson	SCI	FH	Wright & Ferguson Funeral Home 106 Cynthia Street Clinton, Mississippi 39056
Mississippi	West Jackson	SCI	FH	Wright & Ferguson Funeral Home 201 Hinds Boulevard Raymond, Mississippi 39154
Missouri	North Kansas City	SCI	FH/ CEM	Mount Moriah Terrace Park Funeral Home & Cemetery (c) 801 Northwest 108 th Street Kansas City, Missouri 64155
South Carolina	Columbia	SCI	FH	Caughman-Harman St. Andrew's Chapel/Bush River Memorial Gardens (c) 5400 Bush River Road Columbia, South Carolina 29212
Tennessee	Knoxville	SCI	CEM	New Gray Cemetery 2724 Western Avenue Knoxville, Tennessee 37921
Tennessee	Knoxville	SCI	CEM	Greenwood Cemetery 3500 Tazewell Pike Knoxville, Tennessee 37918
Texas	Dallas (South)	SCI	CEM	Lincoln Funeral Home & Cemetery (c) 8100 Fireside Drive Dallas, Texas 75217
Texas	Dallas (South)	SCI	CEM	Lincoln Memorial Park Cemetery 1311 Murdock Road Dallas, Texas 75217
Virginia	Richmond (South)	SCI	CEM	Sunset Memorial Park 2901 West Hundred Road Chester, Virginia 23831

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Stewart Properties To Be Held Separate

State	Area	Owner	FH/ CEM	Property Name & Address
California	Auburn	Stewart	FH	Lasilla Funeral Chapel – Auburn 551 Grass Valley Highway Auburn, California 95603
California	Palmdale/ Lancaster	Stewart	FH	Halley-Olsen-Murphy Funerals & Cremations 44831 N. Cedar Avenue Lancaster, California 93534
California	Palmdale/ Lancaster	Stewart	FH	Antelope Valley Cremation Service 619 West Milling Lancaster, California 93534
Florida	St. Petersburg/ Largo	Stewart	CEM	Memorial Park Funeral Home & Cemetery (c) 5750 49 th Street North St. Petersburg, Florida 33709
Florida	St. Petersburg/ Largo	Stewart	CEM	Woodlawn Memory Gardens 101 58 th Street South St. Petersburg, Florida 33707
Florida	Jacksonville	Stewart	FH/CEM	Arlington Park Cemetery/Funeral Home (c) 6920 Lone Star Road Jacksonville, Florida 32211
Florida	Ocala	Stewart	FH	Roberts Funeral Home 606 Southwest 2 nd Avenue Ocala, Florida 34471
Florida	Ocala	Stewart	FH	Roberts Funeral Home – Bruce Chapel East 2739 SSE Maricamp Road Ocala, Florida 34471
Florida	Ocala	Stewart	FH	Roberts Funeral Home – Bruce Chapel West 6241 Southwest State Road 200 Ocala, Florida 34476
Florida	Ocala	Stewart	CEM	Good Shepherd Memorial Gardens 5050 SW 20 th Street Ocala, Florida 32111
Florida	Orlando (West)	Stewart	CEM	Highland Memory Gardens 3329 East Semoran Boulevard Apopka, Florida 32703

Order to Hold Separate

State	Area	Owner	FH/ CEM	Property Name & Address
Florida	Port St. Lucie	Stewart	FH/ CEM	Forest Hills Palm City Chapel & Forest Hills Memorial Park (c) 2001 S.W. Murphy Road Palm City, FL 34990
Florida	Tampa	Stewart	FH	Boza & Roel Funeral Home 4730 North Armenia Avenue Tampa, Florida 33603
Georgia	Atlanta	Stewart	CEM	Cheatham Hill Memorial Park/Southern Cremations & Funerals (c) 1860 Dallas Highway SW Marietta, Georgia 30064
Georgia	Atlanta	Stewart	CEM	Holly Hill Memorial Park 359 West Broad Street Fairburn, Georgia 30213
Georgia	Atlanta	Stewart	CEM	Eastlawn Memorial Park 640 McGarity Road McDonough, Georgia 30252
Louisiana	New Orleans	Stewart	FH	Greenwood Funeral Home 5200 Canal Boulevard New Orleans, Louisiana 70124
Maryland	Annapolis	Stewart	CEM	Hillcrest Memorial Gardens 1911 Forest Drive Annapolis, Maryland 21401
Maryland	Baltimore	Stewart	CEM	Parkwood Cemetery 3310 Taylor Avenue Baltimore, Maryland 21234
Missouri	Overland Park, KS	Stewart	FH	Overland Park Chapel 8201 Metcalf Avenue Overland Park, Kansas 66204
Missouri	South Kansas City, KS/ Missouri	Stewart	FH/ CEM	Johnson County Funeral Chapel & Memorial Gardens (c) 11200 Metcalf Avenue Overland Park, Kansas 66210
North Carolina	New Bern	Stewart	FH	Pollack-Best Funerals & Cremations 2015 Neuse Boulevard New Bern, North Carolina 28560
North Carolina	High Point	Stewart	CEM	Floral Garden Memorial Park 1730 W. English Road High Point, North Carolina 27262

Order to Hold Separate

State	Area	Owner	FH/ CEM	Property Name & Address
North Carolina	Raleigh	Stewart	FH/ CEM	Montlawn Memorial Pk, Funerals & Cremations(c) 2911 South Wilmington Street Raleigh, North Carolina 27603
Pennsylvania	Philadelphia	Stewart	CEM	George Washington Memorial Park/Kirk & Nice Funeral Home, Inc. (c) 80 Stenton Avenue Plymouth Meeting, Pennsylvania 19462
Pennsylvania	Philadelphia	Stewart	CEM	Sunset Memorial Park/Kirk & Nice Suburban Chapel, Inc. (c) 333 County Line Road Feasterville, Pennsylvania 19053
South Carolina	Greenville	Stewart	FH/CEM	Cannon Memorial Pk, Funerals and Cremations (c) 1150 North Main Street Fountain Inn, South Carolina 29644
South Carolina	Greenville	Stewart	FH	Cannon Memorial Park, Funerals and Cremations – Jones Chapel 603 West Curtis Street Simpsonville, South Carolina 29681
Tennessee	Kingsport	Stewart	CEM	Oak Hill Memorial Park, Funerals and Cremations (c) 800 Truxton Drive Kingsport, Tennessee 37660
Tennessee	Nashville	Stewart	FH	Cole & Garrett Funeral Home 127 North Main Street Goodlettsville, Tennessee 37072
Texas	Dallas	Stewart	FH/ CEM	Restland Funeral Home & Cemetery (c) 13005 Greenville Avenue Dallas, Texas 75243
Texas	Southeast Fort Worth	Stewart	FH/ CEM	Emerald Hills Funeral Home & Cemetery (c) 500 Sublett Road Kennedale, Texas 76060
Texas	Houston	Stewart	CEM	South Park Funeral Home & Cemetery (c) 1310 North Main Street Pearland, Texas 77518
Texas	Houston	Stewart	CEM	San Jacinto Memorial Park & Funeral Home (c) 14659 East Freeway Houston, Texas 77015

Order to Hold Separate

State	Area	Owner	FH/ CEM	Property Name & Address
Virginia	Arlington-Alexandria	Stewart	FH	Everly Wheatley Funeral Home – Alexandria 1500 West Braddock Road Alexandria, Virginia 22302
Virginia	Arlington-Alexandria	Stewart	FH	Everly Community Funeral Care 6161 Leesburg Pike Falls Church, Virginia 22044
Virginia	Richmond (Northwest)	Stewart	CEM	Greenwood Memorial Gardens 12609 Patterson Avenue Richmond, Virginia 23238
West Virginia	Kearneysville	Stewart	CEM	Pleasant View Memory Gardens 2938 Charles Town Road Kearneysville, West Virginia 25430

Confidential Appendix B – Held Separate Employees

**[Redacted From the Public Record Version, But
Incorporated By Reference]**

Decision and Order

DECISION AND ORDER

The Federal Trade Commission, having initiated an investigation of the proposed acquisition by Respondent Service Corporation International (“SCI”) of the outstanding voting securities of Respondent Stewart Enterprises, Inc. (“Stewart”), and Respondents having been furnished thereafter with a copy of a draft of complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing consent orders (“Consent Agreement”), an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondents have violated the said Acts, and that a complaint should issue stating its charges in that respect, and having thereupon issued its complaint and its Order to Hold Separate and Maintain Assets (“Hold Separate Order”) and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered any comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34, now in further conformity with the procedure described in Commission Rule 2.34, the Commission hereby makes the following jurisdictional findings and enters the following Decision and Order (“Order”):

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1. Respondent Service Corporation International is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Texas, with its corporate office and principal place of business located at 1929 Allen Parkway, Houston, Texas 77019.
2. Respondent Stewart Enterprises, Inc., is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Louisiana, with its corporate office and principal place of business located at 1333 South Clearview Parkway, Jefferson, Louisiana 70121.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents and the proceeding is in the public interest.

ORDER**I.**

IT IS HEREBY ORDERED that, as used in this Order, the following definitions shall apply:

- A. “SCI” means Service Corporation International, its directors, officers, employees, agents, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates in each case controlled by Service Corporation International (including, after the Acquisition, Stewart) and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. “Stewart” means Stewart Enterprises, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and the subsidiaries, divisions, groups, and affiliates in each case controlled by Stewart Enterprises, Inc., and the respective directors,

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officers, employees, agents, representatives, successors, and assigns of each.

- C. “Commission” means the Federal Trade Commission.
- D. “Acquirer” means any Person that receives the prior approval of the Commission to acquire any of the Divestiture Assets pursuant to this Order.
- E. “Acquisition” means the proposed acquisition described in the Agreement and Plan of Merger among Service Corporation International, RIO Acquisition Corp. and Stewart Enterprises, Inc., dated as of May 28, 2013.
- F. “Acquisition Date” means the date the Acquisition is consummated.
- G. “Cemetery Services” means all activities relating to the promotion, marketing, sale, and provision of property, goods, and services, to provide for the final disposition of human remains in a cemetery, whether by burial, entombment in a mausoleum or crypt, disposition in a niche, or scattering of cremated remains on the cemetery grounds.
- H. “Confidential Information” means competitively sensitive, proprietary, and all other business information of any kind, including any and all of the following information:
 - 1. all information that is a trade secret under applicable trade secret or other law;
 - 2. all information concerning product specifications, data, know-how, formulae, compositions, processes, designs, sketches, photographs, graphs, drawings, samples, inventions and ideas, past, current and planned research and development, current and planned manufacturing or distribution methods and processes, customer lists, current and

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anticipated customer requirements, price lists, market studies, business plans, software and computer software and database technologies, systems, structures, and architectures;

3. all information concerning the relevant business (which includes historical and current financial statements, financial projections and budgets, tax returns and accountants' materials, historical, current and projected sales, capital spending budgets and plans, business plans, strategic plans, marketing and advertising plans, publications, client and customer lists and files, contracts, the names and backgrounds of key personnel and personnel training techniques and materials); and
4. all notes, analyses, compilations, studies, summaries and other material to the extent containing or based, in whole or in part, upon any of the information described above;

Provided, however, that Confidential Information shall not include information that (i) was, is, or becomes generally available to the public other than as a result of a breach of this Order; (ii) was or is developed independently of and without reference to any Confidential Information; or (iii) was available, or becomes available, on a non-confidential basis from a third party not bound by a confidentiality agreement or any legal, fiduciary or other obligation restricting disclosure.

- I. "Contract" means any agreement, contract, lease, consensual obligation, promise or undertaking (whether written or oral and whether express or implied), whether or not legally binding; including, but not limited to, Pre-Need Contracts.
- J. "Corporate Trade Names" means the following commercial names, trade names, "doing business as (d/b/a) names, registered and unregistered trademarks

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and service marks: “Service Corporation International,” “SCI,” “Dignity” (including “Dignidad,” “Dignite,” and other translations of Dignity into languages other than English), “Dignity Memorial,” “Alderwoods,” “Keystone,” “Key Memories,” “Stewart,” “Stewart Enterprises,” “STEI,” “SE,” and “Simplicity Plan.”

- K. “Direct Cost” means the actual cost of labor, including employee benefits, materials, resources, travel expenses, services, the actual cost of any third-party charges, and other expenditures to the extent the costs are directly incurred to provide the relevant assistance or service.
- L. “Divestiture Agreement” means any agreement between Respondents (or between a Divestiture Trustee) and an Acquirer to divest the Divestiture Assets, or otherwise to accomplish the requirements of this Order, and all amendments, exhibits, attachments, agreements, and schedules thereto, that have been approved by the Commission to accomplish the requirements of this Order.
- M. “Divestiture Assets” means all of Respondents’ right, title, and interest in and to all property and assets, real, personal or mixed, tangible and intangible, of every kind and description, wherever located, and any improvements or additions thereto, relating to operation of the Divestiture Business, including, but not limited to:
 - 1. all real property interests (including fee simple interests and real property leasehold interests), including all easements, and appurtenances, together with all buildings and other structures, facilities, and improvements located thereon, owned, leased, or otherwise held;
 - 2. all Tangible Personal Property, including any Tangible Personal Property removed from any

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location of the Divestiture Business since the date of the announcement of the Acquisition, and not replaced, if such property is necessary to operate a Divestiture Business as a going concern, unless such Tangible Personal Property was removed in the ordinary course of business and has a replacement cost of less than \$5,000;

3. all inventories;
4. all (i) trade accounts receivable and other rights to payment from customers and the full benefit of all security for such accounts or rights to payment, including all trade accounts receivable representing amounts receivable in respect of goods shipped or products sold or services rendered to customers, (ii) all other accounts or notes receivable and the full benefit of all security for such accounts or notes and (iii) any claim, remedy or other right related to any of the foregoing;
5. all Contracts and all outstanding offers or solicitations to enter into any Contract, and all rights thereunder and related thereto;
6. all consents, licenses, registrations, or permits issued, granted, given, or otherwise made available by or under the authority of any governmental body or pursuant to any legal requirement, and all pending applications therefor or renewals thereof, to the extent assignable;
7. all data and Records, including client and customer lists and Records, referral sources, research and development reports and Records, production reports and Records, service and warranty Records, equipment logs, operating guides and manuals, financial and accounting Records, creative materials, advertising materials, promotional materials, studies, reports, correspondence and other similar documents and Records, and copies

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of all personnel Records (to the extent permitted by law);

8. all intangible rights and property, including Intellectual Property owned or licensed (as licensor or licensee) by Respondents, going concern value, goodwill, and telephone and telecopy listings;
9. all insurance benefits, including rights and proceeds; and
10. all rights relating to deposits and prepaid expenses, claims for refunds and rights to offset in respect thereof;

Provided, however, that the Divestiture Assets need not include any:

(i) Retained Assets;

(i) Retained Intellectual Property; and

(iii) Assets not needed by Acquirer and the Commission approves the divestiture required by Paragraph II.A. of this Order without such assets.

- N. “Divestiture Business” means the provision of Funeral Services, Cemetery Services, or both, by Respondents prior to the Acquisition at the locations identified in Appendix A to this Order.
- O. “Divestiture Business Employee” means any individual (i) who is or was employed by Respondents on a full-time, part-time, or contract basis as of the Acquisition Date and (ii) whose job responsibilities related primarily to the Divestiture Business at any time as of and after the date of the announcement of the Acquisition.
- P. “Divestiture Date” means the date on which Respondents (or the Divestiture Trustee) close on any

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transaction to divest any of the Divestiture Assets to an Acquirer.

- Q. “Employee Information” means employment information relating to any Divestiture Business Employee, to the extent permitted by law, including, but not limited to, name, job title or position, date of hire, description of job responsibilities, salary or current wages, the most recent bonus paid, employment status (*i.e.*, active or on leave or disability; full-time or part-time; contract), any other material terms and conditions of employment in regard to such employee that are not otherwise generally available to similarly situated employees, and employee benefit plans.
- R. “Funeral Services” means all activities relating to the promotion, marketing, sale, and provision of funeral services and funeral goods, including, but not limited to, goods and services used to remove, care for, and prepare bodies for burial, cremation, or other final disposition; and goods and services used to arrange, supervise, or conduct the funeral ceremony or final disposition of human remains.
- S. “Hold Separate Business” means the business, assets, and employees identified in the Hold Separate Order that Respondents shall hold separate pursuant to the Hold Separate Order.
- T. “Hold Separate Employees” means the Divestiture Business Employees identified in Paragraph I.S. of the Hold Separate Order.
- U. “Intellectual Property” means all intellectual property, including (i) commercial names, all assumed fictional business names, trade names, “doing business as” (d/b/a names), registered and unregistered trademarks, service marks and applications; (ii) all patents, patent applications and inventions and discoveries that may be patentable; (iii) all registered and unregistered

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copyrights in both published works and unpublished works; (iv) all rights in mask works; (v) all know-how, trade secrets, confidential or proprietary information, customer lists, software, technical information, data, process technology, plans, drawings, and blue prints; (vi) and all rights in internet web sites and internet domain names presently used.

- V. “Key Employee” means (i) funeral home Divestiture Business Employees whose job title is funeral director, location manager, or other job title with responsibilities similar to those of funeral director or location manager and (ii) cemetery Divestiture Business Employees whose job responsibilities include management of a cemetery.
- W. “License” means (i) a worldwide, royalty-free, paid-up, perpetual, irrevocable, transferrable, and sublicensable license; and (ii) such tangible embodiments of the licensed rights (including, but not limited to, physical and electronic copies) as may be necessary or appropriate to enable an Acquirer to use the rights.
- X. “National” in reference to an asset, license, program, or activity means that such an asset, license, program, or activity is used by Respondents in the operation of both (i) one or more Divestiture Businesses and (ii) at least ten (10) of Respondents’ other businesses that provide Funeral Services or Cemetery Services.
- Y. “Optional Divestiture Assets” means the Divestiture Assets relating to the operation of the Divestiture Business located at: (i) Woodlawn Memory Gardens 101 58th Street South, St. Petersburg, Florida 33707; (ii) Orlando Memorial Gardens, 5264 Ingram Road, Apopka, Florida 32703; and (iii) Cannon Memorial Park, Funerals and Cremations – Jones Chapel, 603 West Curtis Street, Simpsonville, South Carolina 29681.

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- Z. “Person” means any individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a governmental body.
- AA. “Pre-Need Contract” means any type of contract or other agreement entered into by a person for the purchase of Funeral Services or Cemetery Services at a future time, regardless of whether such agreement is revocable or how payment for such services is arranged.
- BB. “Preparation Services” means transportation of human remains, embalming, cosmetizing, and other preparation of human remains for a funeral service, burial service, or cremation as well as the cremation of human remains.
- CC. “Prospective Acquirer” means a Person that Respondents (or the Divestiture Trustee) intend to submit to the Commission for its prior approval to acquire Divestiture Assets pursuant to Paragraph II (or Paragraph IV) of this Order.
- DD. “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- EE. “Respondents” means SCI and Stewart, individually and collectively; *provided, however*, that after the Acquisition Date, Respondents shall mean SCI.
- FF. “Retained Assets” means:
1. Respondents’ corporate headquarters;
 2. Corporate Trade Names and portions of website content, domain names, or e-mail addresses that contain Corporate Trade Names;

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3. The trade names “Baldwin-Fairchild,” “D.W. Newcomer’s Sons,” “Davis,” “Funeraria Del Angel,” “Caughman-Harman,” and “Mount Moriah” (but only those rights as they relate to Mount Moriah Cemetery South and Mount Moriah & Freeman Funeral Home);
4. Website names and content at www.baldwinfairchild.com, www.davisfuneralsandcremations.com, and www.funerariasdelangel.com;
5. National information systems;
6. National licenses, unless such licenses are not generally available to the public;
7. National supply or service agreements, and National proprietary or licensed advertising programs;
8. Leases of Tangible Personal Property that pertain to generally available property relating to office furniture, office equipment, or computers;
9. Assets at locations other than a Divestiture Business if such assets are not exclusively or primarily used in the operation of such Divestiture Business;
10. Subject to the requirements of Paragraph III. of this Order, a copy of any data or Records that contain information concerning both (a) one or more Divestiture Businesses and (b) one or more other businesses that Respondents are not required to divest, and
11. Licenses to non-proprietary software generally available to the public.

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- GG. “Retained Intellectual Property” means any owned or licensed (as licensor or licensee) Intellectual Property (not included in the Retained Assets) relating to both to the operation of any Divestiture Business and any other business owned by SCI prior to the Acquisition or acquired by SCI in the Acquisition, unless such Intellectual Property relates primarily to the Divestiture Business.
- HH. “Specified State” means California, Florida, Maryland, Missouri, North Carolina, Pennsylvania, Tennessee, or Texas.
- II. “Support Services” means Preparation Services and administrative and technical services that Respondents provide to the Divestiture Business and Divestiture Assets that are not performed by employees who are permanently located at any of the Divestiture Businesses, including, but not limited to (i) human resources and administrative services, (ii) federal and state regulatory compliance and policy development services, (iii) environmental health and safety services, (iv) financial accounting services, (v) preparation of tax returns, (vi) audit services, (vii) information technology support services, (viii) processing of accounts payable and accounts receivable, (ix) technical support, (x) procurement of supplies, (xi) maintenance and repair of facilities, (xii) legal services, or (xiii) other support services as needed to operate the Hold Separate Business in the same manner as before the Acquisition Date.
- JJ. “Support Services Employee” means any individual employed by Respondents who pro-vides Support Services to the Hold Separate Business pursuant to Paragraph V.C. of the Hold Separate Order.
- KK. “Tangible Personal Property” means all machinery, equipment, tools, furniture, office equipment, computer hardware, supplies, materials, vehicles, and other items of tangible personal property (other than

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inventories) of every kind owned or leased, together with any express or implied warranty by the manufacturers or sellers or lessors of any item or component part thereof and all maintenance records and other documents relating thereto.

- LL. “Transitional Assistance” means assistance with respect to providing Funeral Services or Cemetery Services on a transitional basis, including assistance relating to administrative and support services.

II.**IT IS FURTHER ORDERED** that:**A.** Respondents shall:

1. No later than 180 days from the date this Order is issued, divest the Divestiture Assets absolutely and in good faith, at no minimum price, as on-going businesses, to an Acquirer or Acquirers that receive(s) the prior approval of the Commission and in a manner (including execution of a Divestiture Agreement with each Acquirer) that receives the prior approval of the Commission; and
2. No later than the Divestiture Date, grant a License to all Retained Intellectual Property to each Acquirer (in a manner that receives the prior approval of the Commission) that will permit the Acquirer to operate the relevant Divestiture Business in substantially the same manner as Respondents prior to the Acquisition, including the freedom to extend existing services and products and develop new services and products;

Provided however that Respondents need not divest the Optional Divestiture Assets if the relevant Acquirer does not want to acquire such assets and the Commission approves the divestiture without them; *provided further* that Respondents may receive

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Preparation Services from an Acquirer, if needed, on a transitional basis (subject to the prior approval of the Commission).

- B. Respondents shall divest each of the following groupings of funeral homes and/or cemeteries to no more than one Acquirer:
1. **Lancaster, California:** (i) Halley-Olsen-Murphy Funerals and Cremations, 44831 N. Cedar Avenue, Lancaster, California 93534 and (ii) Antelope Valley Cremation Service, 619 West Milling, Lancaster, California 93534.
 2. **Los Angeles, California:** (i) Lubyen Family Dilday-Motell Mortuary, 5161 Arbor Road, Long Beach, California 90808; (ii) Funeraria Del Angel JT Oswald, 1001 North Maclay, San Fernando, California 91340; and (iii) Custer Christiansen Mortuary – Covina, 124 S. Citrus Avenue, Covina, California 91723.
 3. **San Diego, California:** (i) Clairemont Mortuary, 4266 Mt. Abernathy Avenue, San Diego, California 92117 and (ii) Greenwood Memorial Park and Mortuary, 4300 Imperial Avenue, San Diego, California 92113.
 4. **Clearwater/St. Petersburg, Florida:** (i) Moss Feaster Funeral Home, 1320 Main Street, Dunedin, Florida 34698, (ii) Moss Feaster Funeral Home, 693 South Belcher Road, Clearwater, Florida 33764, (iii) Woodlawn Memory Gardens, 101 58th Street South, St. Petersburg, Florida 33707, and (iv) Memorial Park Funeral Home & Cemetery, 5750 49th Street North, St. Petersburg, Florida 33709.
 5. **Miami, Florida:** (i) Funeraria Memorial Plan – San Jose, 220 East 4th Avenue, Hialeah, Florida 33010; (ii) Funeraria Memorial Plan –

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Westchester, 9800 SW 24th Street, Miami, Florida 33165; (iii) Branam Funeral Home, 809 North Drome Avenue, Homestead, Florida 33030; (iv) Memorial Plan Flagler Memorial Park, 5301 West Flagler Street, Miami, Florida 33134; and (v) Memorial Plan Miami Memorial Park, 6200 SW 77th Avenue, Miami, Florida 33143.

6. **Ocala, Florida:** (i) Roberts Funeral Home, 606 Southwest 2nd Avenue, Ocala, Florida 34471; (ii) Roberts Funeral Home – Bruce Chapel East, 2739 SE Maricamp Road, Ocala, Florida 34471; (iii) Roberts Funeral Home – Bruce Chapel West, 6241 SW State Road 200, Ocala, Florida 34476; and (iv) Good Shepherd Memorial Gardens, 5050 SW 20th Street, Ocala, Florida 32111.
7. **Orlando, Florida:** (i) Carey-Hand Cox Parker Funeral Home, 1350 West Fairbanks Avenue, Winter Park, Florida 32789; (ii) Colonial Chapel/Carey Hand, 2811 East Curry Ford Road, Orlando, Florida 32806; (iii) Collison Carey Hand Funeral Home, 1148 East Plant Street, Winter Garden, FL 34787; (iv) Orlando Memory Gardens, 5264 Ingram Road, Apopka, Florida 32703; and (v) Highland Memory Gardens, 3329 East Semoran Boulevard, Apopka, Florida 32703.
8. **Atlanta, Georgia:** (i) Holly Hill Memorial Park, 359 West Broad Street, Fairburn, Georgia 30213; and (ii) Eastlawn Memorial Park, 640 McGarity Road, McDonough, Georgia 30252.
9. **New Orleans, Louisiana:** (i) Schoen Funeral Home, 3827 Canal Street, New Orleans, Louisiana 70119; (ii) Garden of Memories Funeral Home and Cemetery, 4900 Airline Drive, Metairie, Louisiana 70001; and (iii) Greenwood Funeral Home, 5200 Canal Boulevard, New Orleans, Louisiana 70124.

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10. **Jackson, Mississippi:** (i) Wright & Ferguson Funeral Home – Clinton, 106 Cynthia Street, Clinton, Mississippi 39056 and (ii) Wright & Ferguson Funeral Home – Raymond, 201 Hinds Boulevard, Raymond, Mississippi 39154.
11. **Kansas City, Missouri:** (i) Mount Moriah Terrace Park Funeral Home and Cemetery, 801 Northwest 108th Street, Kansas City, Missouri 64155; (ii) Overland Park Chapel, 8201 Metcalf Avenue, Overland Park, Kansas 66204; and (iii) Johnson County Funeral Chapel and Memorial Gardens, 11200 Metcalf Avenue, Overland Park, Kansas 66210.
12. **Philadelphia, Pennsylvania:** (i) George Washington Memorial Park/Kirk & Nice Funeral Home, 80 Stenton Avenue, Plymouth Meeting, Pennsylvania 19462 and (ii) Sunset Memorial Park/Kirk & Nice Suburban Chapel, 333 County Line Road, Feasterville, Pennsylvania 19053.
13. **Greenville, South Carolina:** (i) Cannon Memorial Park, Funerals and Cremations – Fountain Inn, 1150 North Main Street, Fountain Inn, South Carolina 29644 and (ii) Cannon Memorial Park, Funerals and Cremations – Jones Chapel, 603 West Curtis Street, Simpsonville, South Carolina 29681.
14. **Knoxville, Tennessee:** (i) New Gray Cemetery, 2724 Western Avenue, Knoxville, Tennessee 37921 and (ii) Greenwood Cemetery, 3500 Tazewell Pike, Knoxville, Tennessee 37918.
15. **Houston, Texas:** (i) South Park Funeral Home and Cemetery, 1310 North Main Street, Pearland, Texas 77518 and (ii) San Jacinto Memorial Park and Funeral Home, 14659 East Freeway, Houston, Texas 77015.

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16. **Northern Virginia, Virginia:** (i) Everly Wheatley Funeral Home – Alexandria, 1500 West Braddock Road, Alexandria, Virginia 22302 and (ii) Everly Community Funeral Care, 6161 Leesburg Pike, Falls Church, Virginia 22044.
17. **Richmond, Virginia:** (i) Greenwood Memorial Gardens, 12609 Patterson Avenue, Richmond, Virginia 23238 and (ii) Sunset Memorial Park, 2901 West Hundred Road, Chester, Virginia 23831.

C. Notwithstanding any other provision of this Order:

1. Respondents may use any trade names included in the Divestiture Assets in connection with operation of the relevant funeral homes and cemeteries to be retained by Respondents (“Retained Properties”) for a period of up to twelve (12) months from the relevant Divestiture Date, including, but not limited to:
 - a. **“Lasilla”** for the funeral home located at 406 H Street, Lincoln, California 95648;
 - b. **“Halley-Olsen-Murphy”** for the funeral home located at 3150 East Palmdale Boulevard, Palmdale, California 93550;
 - c. **“Moss Feaster”** for the funeral homes located at 13401 Indian Rocks Road, Largo, Florida 33774 and 2550 Highlands Boulevard North, Palm Harbor, Florida 34684;
 - d. **“Forest Hills”** for the funeral homes located at 1170 Southwest Bayshore Boulevard, Port St. Lucie, Florida 34983 and 6801 Southeast Federal Highway, Stuart, Florida 34997;
 - e. **“Funeraria Memorial Plan”** for the funeral homes located at 1717 SW 37th Avenue,

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Miami, Florida 33145 and 7355 SW 117th Avenue, Miami, Florida 33183;

- f. **“Memorial Plan”** for the cemeteries located at 14200 SW 117th Avenue, Miami, Florida 33186, 1301 NW Opa Locka Boulevard, Miami, Florida 33167, and 15000 West Dixie Highway, North Miami, Florida 33181;
- g. **“Wright & Ferguson”** for the funeral homes located at 350 High Street, Jackson, Mississippi 39202 and 1161 Highland Colony Parkway, Ridgeland, Mississippi 39157;
- h. **“Cannon”** for the funeral home located at 603 West Curtis Street, Simpsonville, South Carolina 29681 (if applicable);
- i. **“Cole & Garrett”** for the funeral home located at 212 Highway 76, Whitehouse, Tennessee 37188, and 182 West Main Street, Hendersonville, Tennessee 37075;
- j. **“Restland”** for the funeral home located at 400 South Freeport Parkway, Coppell, Texas 75019; and
- k. **“Everly”** for the funeral home located at 10565 Main Street, Fairfax 22030, Virginia; and

The new trade names under which Respondents seek to conduct business for each of the Retained Properties shall not include any of the trade names, words, or other designations that are assets of the relevant businesses within the Divestiture Businesses; and

- 2. Respondents shall grant an Acquirer a license to use any trade names (excluding any Corporate Trade Names) used in the operation of the relevant

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Divestiture Business that Respondents are not required to divest pursuant to this Order, in connection with operation of the relevant funeral homes and cemeteries to be divested, for a period of up to twelve (12) months from the relevant Divestiture Date, including, but not limited to:

- a. **“Funeraria Del Angel”** for the funeral home located at 1001 North Maclay, San Fernando, California 91340;
- b. **“Caughman-Harman St. Andrews”** for the funeral home located at 5400 Bush River Road, Columbia, South Carolina 29212; and
- c. **“Baldwin-Fairchild”** for the cemetery located at 3329 East Semoran Boulevard, Apopka, Florida 32703;
- d. **“D.W. Newcomer’s Sons”** for the funeral homes and cemeteries located at 8201 Metcalf Avenue, Overland Park, Kansas 66204 and 11200 Metcalf Avenue, Overland Park, Kansas 66210;
- e. **“Davis”** at the cemetery located at 1730 W. English Road, High Point, North Carolina 27262; and

The trade names under which an Acquirer seeks to conduct business for properties divested by Respondents shall not include any of the trade names, words, or other designations that are assets of the businesses being retained by Respondents.

- D. No later than the Divestiture Date, Respondents shall:
 1. Secure all consents, assignments, and waivers from all Persons that are necessary for the divestiture of any Divestiture Assets; *provided, however*, that Respondents may satisfy this requirement by

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certifying that an Acquirer has executed appropriate agreements directly with each of the relevant Persons; and

2. Take all actions necessary to ensure that divestiture of any Divestiture Assets meets federal, state, local, and municipal requirements necessary to transfer such assets to an Acquirer.
- E. Respondents shall not enforce any agreement against any Person or Acquirer to the extent that such agreement may limit or otherwise impair the ability of an Acquirer to acquire, operate, or use the relevant Divestiture Assets.
- F. At the request of an Acquirer and in a manner that receives the prior approval of the Commission, Respondents shall provide Transitional Assistance to such Acquirer for a period not to exceed six (6) months (or such other period as the Commission may approve) after Respondents divest the relevant Divestiture Assets:
1. Such assistance shall be sufficient to enable the Acquirer to operate the relevant Divestiture Assets and Divestiture Business in substantially the same manner and at the same quality achieved by Respondents prior to the divestiture; and
 2. Respondents shall not (i) require the Acquirer to pay compensation for Transitional Assistance that exceeds the Direct Cost of providing such goods and services; (ii) terminate their obligation to provide Transitional Assistance because of a material breach by the Acquirer of the agreement to provide such assistance, in the absence of a final order of a court of competent jurisdiction; or (iii) seek to limit the damages (such as indirect, special, and consequential damages) which the Acquirer would be entitled to receive in the event of

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Respondents' breach of any agreement to provide Transitional Assistance.

- G. At the request of an Acquirer, Respondents shall use their best efforts to assist the Acquirer in the fulfillment of any Pre-need Contract included in the Divestiture Assets relating to the sale of a branded funeral package, including, but not limited to (i) Dignity Memorial Funeral Plan or (ii) Key Memories Plan, entered into by Respondents prior to the Divestiture Date; *provided, however*, that this Paragraph requires Respondents to assist only with such goods and services that the Acquirer cannot reasonably provide on its own.
- H. Respondents shall allow an Acquirer or Prospective Acquirer an opportunity to recruit and employ any Divestiture Business Employee relating to the relevant Divestiture Business and Divestiture Assets under the following terms and conditions:
1. No later than ten (10) days after a request from an Acquirer or Prospective Acquirer, or Commission staff, Respondents shall (i) identify each Divestiture Business Employee, (ii) provide the Employee Information for each Divestiture Business Employee; (iii) allow the Acquirer or Prospective Acquirer an opportunity to meet personally with and interview such employee outside the presence or hearing of Respondents, and (iv) allow the Acquirer to inspect the personnel files and other documentation relating to any such employee, to the extent permissible under applicable laws;
 2. Respondents shall (i) not offer any incentive to any Divestiture Business Employee to decline employment with the Acquirer or Prospective Acquirer, (ii) remove any contractual impediments with Respondents that may deter any Divestiture Business Employee from accepting employment

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with the Acquirer or Prospective Acquirer, including, but not limited to, any non-compete or confidentiality provisions of employment or other contracts with Respondents that would affect the ability of such employee to be employed by the Acquirer or Prospective Acquirer, and (iii) not otherwise interfere with the recruitment, hiring, or employment of any Divestiture Business Employee by the Acquirer or Prospective Acquirer;

3. Respondents shall (i) vest all current and accrued pension benefits as of the date of transition of employment with the Acquirer for any Divestiture Business Employee who accepts an offer of employment from the Acquirer or Prospective Acquirer no later than thirty (30) days from the relevant Divestiture Date, (ii) provide any Key Employee to whom the Acquirer or Prospective Acquirer has made an offer of employment with reasonable financial incentives to accept a position with the Acquirer or Prospective Acquirer at the time of divestiture of the relevant Divestiture Assets; and
4. For a period of two (2) years commencing on the Divestiture Date applicable to the relevant business within the Divestiture Businesses, Respondents shall not, directly or indirectly, solicit, induce, or attempt to solicit or induce any Divestiture Business Employee who has accepted offers of employment with the Acquirer, or who is employed by the Acquirer, to terminate their employment relationship with the Acquirer; *provided, however*, a violation of this provision will not occur if: (1) the individual's employment has been terminated by the Acquirer, (2) Respondents advertise for employees in newspapers, trade publications, or other media not targeted specifically at the employees, or (3) Respondents hire employees who apply for employment with Respondents, so long as such

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employees were not solicited by Respondents in violation of this paragraph.

- I. Respondents shall not, directly or indirectly, solicit, induce, or attempt to solicit or induce a consumer who has a Pre-Need Contract (included in the Divestiture Assets) to terminate such contract and enter into a Pre-Need Contract with Respondents; *provided, however*, a violation of this provision will not occur if: (1) a consumer initiates communications with Respondents regarding a Pre-Need Contract; or (2) Respondents advertise in newspapers, trade publications, or other media in a manner not targeted specifically at customers of an Acquirer.
- J. The Commission may order Respondents to divest additional assets relating to Preparation Services not included in the Divestiture Assets, or effect other appropriate arrangements, as the Commission determines are necessary to ensure the divestiture of the Divestiture Assets as ongoing viable enterprises.
- K. If related to a geographic area located within a Specified State, Respondents shall provide a copy of each:
 - 1. Notification described in Paragraph V.B.1. of this Order to the relevant Specified State at the same time that such notification is transmitted to the Commission; and
 - 2. Application (including supporting materials) submitted to the Commission for its prior approval to acquire the Divestiture Assets pursuant to Paragraph II.A. of this Order to the relevant Specified State at the same time that such application is transmitted to the Commission.
- L. The purpose of the divestiture of the Divestiture Assets is to ensure the continued use of the assets in the same businesses in which such assets were engaged at the

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time of the announcement of the Acquisition by Respondents and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint.

III.**IT IS FURTHER ORDERED** that:

- A. Respondents shall (i) keep confidential (including as to Respondents' employees) and (ii) not use for any reason or purpose, any Confidential Information received or maintained by Respondents relating to the Divestiture Business or Divestiture Assets; *provided, however*, that Respondents may disclose or use such Confidential Information in the course of:
1. Performing their obligations or as permitted under this Order, the Hold Separate Order, or any Divestiture Agreement (Hold Separate Employees and Support Services Employees shall be deemed to be performing obligations under the Hold Separate Order); or
 2. Complying with financial reporting requirements, obtaining legal advice, prosecuting or defending legal claims, investigations, or enforcing actions threatened or brought against the Divestiture Business or Divestiture Assets, or as required by law.
- B. If disclosure or use of any Confidential Information is permitted to Respondents' employees or to any other Person under Paragraph III.A. of this Order, Respondents shall limit such disclosure or use (i) only to the extent such information is required, (ii) only to those employees or Persons who require such information for the purposes permitted under Paragraph III.A., and (iii) only after such employees or Persons have signed an agreement to maintain the confidentiality of such information.

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- C. Respondents shall enforce the terms of this Paragraph III. as to its employees or any other Person, and take such action as is necessary to cause each of its employees and any other Person to comply with the terms of this Paragraph III., including implementation of access and data controls, training of its employees, and all other actions that Respondents would take to protect their own trade secrets and proprietary information.

IV.**IT IS FURTHER ORDERED** that:

- A. If Respondents have not fully complied with the divestiture and other obligations as required by Paragraph II. of this Order, the Commission may appoint a Divestiture Trustee to divest the Divestiture Assets and perform Respondents' other obligations in a manner that satisfies the requirements of this Order. The Divestiture Trustee appointed pursuant to this Paragraph may be the same Person appointed as Hold Separate Trustee pursuant to the Hold Separate Order.
- B. In the event that the Commission or the Attorney General brings an action pursuant to § 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a Divestiture Trustee in such action to divest the relevant assets in accordance with the terms of this Order. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed Divestiture Trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondents to comply with this Order.

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- C. The Commission shall select the Divestiture Trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. The Divestiture Trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed Divestiture Trustee within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed Divestiture Trustee, Respondents shall be deemed to have consented to the selection of the proposed Divestiture Trustee.
- D. Within ten (10) days after appointment of a Divestiture Trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effect the relevant divestiture or other action required by the Order.
- E. If a Divestiture Trustee is appointed by the Commission or a court pursuant to this Order, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:
 - 1. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to assign, grant, license, divest, transfer, deliver, or otherwise convey the relevant assets that are required by this Order to be assigned, granted, licensed, divested, transferred, delivered, or otherwise conveyed, and to take such other action as may be required to divest the Divestiture Assets.
 - 2. The Divestiture Trustee shall have twelve (12) months from the date the Commission approves the trust agreement described herein to accomplish the divestiture, which shall be subject to the prior

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approval of the Commission. If, however, at the end of the twelve (12) month period, the Divestiture Trustee has submitted a plan of divestiture or believes that the divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or in the case of a court-appointed Divestiture Trustee, by the court.

3. Subject to any demonstrated legally recognized privilege, the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be assigned, granted, licensed, divested, delivered, or otherwise conveyed by this Order and to any other relevant information, as the Divestiture Trustee may request. Respondents shall develop such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondents shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestiture. Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph IV in an amount equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court.
4. The Divestiture Trustee shall use commercially reasonable best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest expeditiously and at no minimum price. The divestiture shall be made in the manner and to an Acquirer as required by this Order; *provided, however*, if the Divestiture Trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such

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acquiring entity, the Divestiture Trustee shall divest to the acquiring entity selected by Respondents from among those approved by the Commission; *provided further, however*, that Respondents shall select such entity within five (5) days of receiving notification of the Commission's approval.

5. The Divestiture Trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The Divestiture Trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed Divestiture Trustee, by the court, of the account of the Divestiture Trustee, including fees for the Divestiture Trustee's services, all remaining monies shall be paid at the direction of the Respondents, and the Divestiture Trustee's power shall be terminated. The compensation of the Divestiture Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets that are required to be divested by this Order.
6. Respondents shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other

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expenses incurred in connection with the preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from gross negligence or willful misconduct by the Divestiture Trustee. For purposes of this Paragraph IV.E.6., the term “Divestiture Trustee” shall include all Persons retained by the Divestiture Trustee pursuant to Paragraph IV.E.5. of this Order.

7. The Divestiture Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order.
 8. The Divestiture Trustee shall report in writing to Respondents and to the Commission every sixty (60) days concerning the Divestiture Trustee’s efforts to accomplish the divestiture.
 9. Respondents may require the Divestiture Trustee and each of the Divestiture Trustee’s consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; *provided, however*, such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.
- F. The Commission may require the Divestiture Trustee and each of the Divestiture Trustee’s consultants, accountants, attorneys, and other representatives and assistants to sign a confidentiality agreement related to Commission materials and information received in connection with the performance of the Divestiture Trustee’s duties.
- G. If the Commission determines that a Divestiture Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Divestiture Trustee in the same manner as provided in this Paragraph IV.

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- H. The Commission or, in the case of a court-appointed Divestiture Trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures and other obligations or action required by this Order.

V.**IT IS FURTHER ORDERED** that:

- A. For a period of ten (10) years from the date this Order is issued, Respondents shall not, without providing advance written notification to the Commission, with respect to any of the geographic areas identified in Appendix B of this Order, acquire, directly or indirectly, through subsidiaries or otherwise, any leasehold, ownership interest, or any other interest, in whole or in part, in any concern, corporate or non-corporate, or in any assets engaged in Funeral Services or Cemetery Services, as specified in the relevant section of Appendix B of this Order.
- B. With respect to the notification:
1. The prior notification required by this Paragraph V shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as “the Notification”), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification shall be filed with the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of the Respondents and not of any other party to the transaction.
 2. Respondents shall provide the Notification to the Commission at least thirty (30) days prior to

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consummating the transaction (hereinafter referred to as the “first waiting period”). If, within the first waiting period, representatives of the Commission make a written request for additional information or documentary material (within the meaning of 16 C.F.R. § 803.20), Respondents shall not consummate the transaction until thirty (30) days after submitting such additional information or documentary material.

3. Early termination of the waiting periods in this Paragraph V may be requested and, where appropriate, granted by letter from the Bureau of Competition. Provided, however, that prior notification shall not be required by this Paragraph for a transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

VI.**IT IS FURTHER ORDERED** that:

- A. All Divestiture Agreements shall be incorporated by reference into this Order and made a part hereof. Respondents shall comply with all terms of any Divestiture Agreement, and any breach by Respondents of any term of a Divestiture Agreement shall constitute a failure to comply with this Order. If any term of a Divestiture Agreement varies from the terms of this Order (“Order Term”), then to the extent that Respondents cannot fully comply with both terms, the Order Term shall determine Respondents’ obligations under this Order.
- B. Respondents shall not modify, replace, or extend the terms of any Divestiture Agreement without the prior approval of the Commission. Notwithstanding any paragraph, section, or other provision of a Divestiture Agreement, any modification of such agreement without the prior approval of the Commission shall

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constitute a failure to comply with this Order, except as otherwise provided in Rule 2.41(f)(5) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 2.41(f)(5).

VII.**IT IS FURTHER ORDERED** that:

- A. Respondents shall file a verified written report with the Commission setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with this Order:
 - 1. No later than thirty (30) days from the date this Order is issued and every thirty (30) days thereafter until Respondents have fully complied with the provisions of Paragraphs II.A. and II.F. of this Order; and
 - 2. No later than one (1) year after the date this Order is issued and annually thereafter until this Order terminates, and at such other times as the Commission staff may request.
- B. With respect to any divestiture required by Paragraph II.A. of this Order, Respondents shall include in their compliance reports (i) the status of the divestiture and transfer of the Divestiture Assets; (ii) a description of all Transitional Services provided to each Acquirer; (iii) a description of all substantive contacts with each Acquirer; and (iv) any other actions taken by Respondents relating to compliance with the terms of this Order and/or any Divestiture Agreement, and (v) as applicable, a statement that any divestiture approved by the Commission has been accomplished, including a description of the manner in which Respondents completed such divestiture and the date the divestiture was accomplished.

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VIII.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to:

- A. Any proposed dissolution of Respondents;
- B. Any proposed acquisition, merger, or consolidation of Respondents; or
- C. Any other change in the Respondents, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of the Order.

IX.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days' notice to Respondents, Respondents shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of the Respondents and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession, or under the control, of the Respondents related to compliance with this Order, which copying services shall be provided by the Respondents at their expense; and
- B. To interview officers, directors, or employees of the Respondents, who may have counsel present, regarding such matters.

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X.

IT IS FURTHER ORDERED that this Order shall terminate on April 29, 2024.

By the Commission, Commissioner McSweeney not participating.

Appendix A**Properties To Be Divested**

State	Area	Owner	FH/ CEM	Property Name & Address
Alabama	Mobile	SCI	FH	Mobile Memorial Gardens Funeral Home 6040 Three Notch Road Mobile, Alabama 36619
California	Auburn	Stewart	FH	Lasilla Funeral Chapel – Auburn 551 Grass Valley Highway Auburn, California 95603
California	Palmdale/ Lancaster	Stewart	FH	Halley-Olsen-Murphy Funerals & Cremations 44831 N. Cedar Avenue Lancaster, California 93534
California	Palmdale/ Lancaster	Stewart	FH	Antelope Valley Cremation Service 619 West Milling Lancaster, California 93534

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State	Area	Owner	FH/ CEM	Property Name & Address
California	Los Angeles (Long Beach)	SCI	FH	Lubyen Family Dilday-Motell Mortuary 5161 Arbor Road Long Beach, California 90808
California	Los Angeles (San Fernando Valley)	SCI	FH	Funeraria Del Angel JT Oswald 1001 North Maclay San Fernando, California 91340
California	Los Angeles (East Lost Angeles County)	SCI	FH	Custer Christiansen Mortuary 124 S. Citrus Avenue Covina, California 91723
California	San Diego (Northern)	SCI	FH	Clairemont Mortuary 4266 Mt. Abernathy Avenue San Diego, California 92117
California	San Diego (Southern and Eastern)	SCI	FH/ CEM	Greenwood Memorial Park & Mortuary (c) 4300 Imperial Avenue San Diego, California 92113
Florida	Clearwater	SCI	FH	Moss Feaster Funeral Home – Dunedin 1320 Main Street Dunedin, Florida 34698
Florida	Clearwater	SCI	FH	Moss Feaster Funeral Home – Belcher Road 693 South Belcher Road Clearwater, Florida 33764
Florida	St. Petersburg/ Largo	Stewart	CEM	Memorial Park Funeral Home & Cemetery (c) 5750 49 th Street North St. Petersburg, Florida 33709

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State	Area	Owner	FH/ CEM	Property Name & Address
Florida	St. Petersburg/ Largo	Stewart	CEM	Woodlawn Memory Gardens 101 58 th Street South St. Petersburg, Florida 33707
Florida	Jacksonville	Stewart	FH/ CEM	Arlington Park Cemetery/Funeral Home (c) 6920 Lone Star Road Jacksonville, Florida 32211
Florida	Miami-Dade (Miami)	SCI	FH	Funeraria Memorial Plan – San Jose 250 East 4 th Avenue Hialeah, Florida 33010
Florida	Miami-Dade (Miami)	SCI	FH	Funeraria Memorial Plan – Westchester 9800 SW 24 th Street Miami, Florida 33165
Florida	Miami-Dade (Homestead)	SCI	FH	Branam Funeral Home 809 North Krome Avenue Homestead, Florida 33030
Florida	Miami-Dade	SCI	CEM	Memorial Plan Flagler Memorial Park 5301 West Flagler Street Miami, Florida 33134
Florida	Miami-Dade	SCI	CEM	Memorial Plan Miami Memorial Park 6200 SW 77 th Avenue Miami, Florida 33143
Florida	Ocala	Stewart	FH	Roberts Funeral Home 606 Southwest 2 nd Avenue Ocala, Florida 34471
Florida	Ocala	Stewart	FH	Roberts Funeral Home – Bruce Chapel East 2739 SSE Maricamp Road Ocala, Florida 34471

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State	Area	Owner	FH/ CEM	Property Name & Address
Florida	Ocala	Stewart	FH	Roberts Funeral Home – Bruce Chapel West 6241 Southwest State Road 200 Ocala, Florida 34476
Florida	Ocala	Stewart	CEM	Good Shepherd Memorial Gardens 5050 SW 20 th Street Ocala, Florida 32111
Florida	Orlando	SCI	FH	Carey-Hand Cox Parker Funeral Home 1350 West Fairbanks Avenue Winter Park, Florida 32789
Florida	Orlando	SCI	FH	Colonial Chapel/Carey Hand 2811 East Curry Ford Road Orlando, Florida 32806
Florida	Orlando	SCI	FH	Collison Carey Hand Funeral Home 1148 East Plant Street Winter Garden, Florida 34787
Florida	Orlando (West)	Stewart	CEM	Highland Memory Gardens 3329 East Semoran Boulevard Apopka, Florida 32703
Florida	Orlando (West)	SCI	CEM	Orlando Memorial Gardens 5264 Ingram Road Apopka, Florida 32703

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State	Area	Owner	FH/ CEM	Property Name & Address
Florida	Port St. Lucie	Stewart	FH/ CEM	Forest Hills Palm City Chapel & Forest Hills Memorial Park (c) 2001 S.W. Murphy Road Palm City, FL 34990
Florida	Springhill/ Hudson	SCI	CEM	Grace Memorial Gardens & Funeral Home (c) 17007 US Highway 19 North Hudson, Florida 34667
Florida	Tampa	Stewart	FH	Boza & Roel Funeral Home 4730 North Armenia Avenue Tampa, Florida 33603
Florida	Tampa	SCI	CEM	Sunset Funeral Home & Memory Gardens (c) 11005 N US Highway 301 Thonotosassa, Florida 33592
Georgia	Atlanta	Stewart	CEM	Cheatham Hill Memorial Park/Southern Cremations & Funerals (c) 1860 Dallas Highway SW Marietta, Georgia 30064
Georgia	Atlanta	Stewart	CEM	Holly Hill Memorial Park 359 West Broad Street Fairburn, Georgia 30213
Georgia	Atlanta	Stewart	CEM	Eastlawn Memorial Park 640 McGarity Road McDonough, Georgia 30252

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State	Area	Owner	FH/ CEM	Property Name & Address
Louisiana	New Orleans	SCI	FH	Schoen Funeral Home 3827 Canal Street New Orleans, Louisiana 70119
Louisiana	New Orleans	SCI	FH	Tharp-Sontheimer- Tharp Funeral Home 1600 North Causeway Boulevard Metairie, Louisiana 70001
Louisiana	New Orleans	SCI	FH/ CEM	Garden of Memories FH & Cemetery (c) 4900 Airline Drive Metairie, Louisiana 70001
Louisiana	New Orleans	Stewart	FH	Greenwood Funeral Home 5200 Canal Boulevard New Orleans, Louisiana 70124
Maryland	Annapolis	Stewart	CEM	Hillcrest Memorial Gardens 1911 Forest Drive Annapolis, Maryland 21401
Maryland	Baltimore	Stewart	CEM	Parkwood Cemetery 3310 Taylor Avenue Baltimore, Maryland 21234
Maryland	Washington, DC/Maryland Suburbs	SCI	FH	Edward Sagel Funeral Direction Inc. 1091 Rockville Pike Rockville, Maryland 20852
Mississippi	West Jackson	SCI	FH	Wright & Ferguson Funeral Home 106 Cynthia Street Clinton, Mississippi 39056
Mississippi	West Jackson	SCI	FH	Wright & Ferguson Funeral Home 201 Hinds Boulevard Raymond, Mississippi 39154

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State	Area	Owner	FH/ CEM	Property Name & Address
Missouri	North Kansas City	SCI	FH/ CEM	Mount Moriah Terrace Park Funeral Home & Cemetery (c) 801 Northwest 108 th Street Kansas City, Missouri 64155
Missouri	Overland Park, KS	Stewart	FH	Overland Park Chapel 8201 Metcalf Avenue Overland Park, Kansas 66204
Missouri	South Kansas City, KS/Missouri	Stewart	FH/ CEM	Johnson County Funeral Chapel & Memorial Gardens (c) 11200 Metcalf Avenue Overland Park, Kansas 66210
North Carolina	New Bern	Stewart	FH	Pollack-Best Funerals & Cremations 2015 Neuse Boulevard New Bern, North Carolina 28560
North Carolina	High Point	Stewart	CEM	Floral Garden Memorial Park 1730 W. English Road High Point, North Carolina 27262
North Carolina	Raleigh	Stewart	FH/ CEM	Montlawn Memorial Park, Funerals & Cremations (c) 2911 South Wilmington Street Raleigh, North Carolina 27603
Pennsylvania	Philadelphia	Stewart	CEM	George Washington Memorial Park/Kirk & Nice Funeral Home, Inc. (c) 80 Stenton Avenue Plymouth Meeting, Pennsylvania 19462

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State	Area	Owner	FH/ CEM	Property Name & Address
Pennsylvania	Philadelphia	Stewart	CEM	Sunset Memorial Park/Kirk & Nice Suburban Chapel, Inc. (c) 333 County Line Road Feasterville, Pennsylvania 19053
South Carolina	Columbia	SCI	FH	Caughman-Harman St. Andrew's Chapel/Bush River Memorial Gardens (c) 5400 Bush River Road Columbia, South Carolina 29212
South Carolina	Greenville	Stewart	FH/ CEM	Cannon Memorial Park, Funerals and Cremations (c) 1150 North Main Street Fountain Inn, South Carolina 29644
South Carolina	Greenville	Stewart	FH	Cannon Memorial Park, Funerals and Cremations – Jones Chapel 603 West Curtis Street Simpsonville, South Carolina 29681
Tennessee	Kingsport	Stewart	CEM	Oak Hill Memorial Park, Funerals and Cremations (c) 800 Truxton Drive Kingsport, Tennessee 37660
Tennessee	Knoxville	SCI	CEM	New Gray Cemetery 2724 Western Avenue Knoxville, Tennessee 37921
Tennessee	Knoxville	SCI	CEM	Greenwood Cemetery 3500 Tazewell Pike Knoxville, Tennessee 37918

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State	Area	Owner	FH/ CEM	Property Name & Address
Tennessee	Nashville	Stewart	FH	Cole & Garrett Funeral Home 127 North Main Street Goodlettsville, Tennessee 37072
Texas	Dallas	Stewart	FH/ CEM	Restland Funeral Home & Cemetery (c) 13005 Greenville Avenue Dallas, Texas 75243
Texas	Dallas (South)	SCI	CEM	Lincoln Funeral Home & Cemetery (c) 8100 Fireside Drive Dallas, Texas 75217
Texas	Dallas (South)	SCI	CEM	Lincoln Memorial Park Cemetery 1311 Murdock Road Dallas, Texas 75217
Texas	Southeast Fort Worth	Stewart	FH/ CEM	Emerald Hills Funeral Home & Cemetery (c) 500 Sublett Road Kennedale, Texas 76060
Texas	Houston	Stewart	CEM	South Park Funeral Home & Cemetery (c) 1310 North Main Street Pearland, Texas 77518
Texas	Houston	Stewart	CEM	San Jacinto Memorial Park & Funeral Home (c) 14659 East Freeway Houston, Texas 77015
Virginia	Arlington- Alexandria	Stewart	FH	Everly Wheatley Funeral Home – Alexandria 1500 West Braddock Road Alexandria, Virginia 22302

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State	Area	Owner	FH/ CEM	Property Name & Address
Virginia	Arlington-Alexandria	Stewart	FH	Everly Community Funeral Care 6161 Leesburg Pike Falls Church, Virginia 22044
Virginia	Richmond (Northwest)	Stewart	CEM	Greenwood Memorial Gardens 12609 Patterson Avenue Richmond, Virginia 23238
Virginia	Richmond (South)	SCI	CEM	Sunset Memorial Park 2901 West Hundred Road Chester, Virginia 23831
West Virginia	Kearneysville	Stewart	CEM	Pleasant View Memory Gardens 2938 Charles Town Road Kearneysville, West Virginia 25430

Appendix B

Prior Notice – Funeral Homes

State	Area	Area Definition
Alabama	Birmingham	Within a 15 mile radius of Southern Heritage Funeral Home, 475 Cahaba Valley Road, Pelham, Alabama 35124
Alabama	Mobile	Within a 15 mile radius of Radney FH-Mobile, 3155 Dauphin Street, Mobile, Alabama 36606

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State	Area	Area Definition
California	Auburn	Within a 15 mile radius of Chapel of the Hills, 1331 Lincoln Way, Auburn, California 95603
California	Encinitas	Within a 15 mile radius of El Camino Memorial – Encinitas, 340 Melrose Avenue, Encinitas, California 92024
California	Palmdale/ Lancaster	Within a 15 mile radius of Halley-Olsen-Chapel – Palmdale, 3150 East Palmdale Boulevard, Palmdale, California 93550
California	Los Angeles (Long Beach)	Within a 15 mile radius of All Souls Mortuary, 4400 Cherry Avenue, Long Beach, California 90807, except that the prior notice requirement shall include only those facilities that primarily serve the Catholic community
California	Los Angeles (San Fernando Valley)	Within a 15 mile radius of Mission Hills Catholic Mortuary, 11160 Stranwood Avenue, Mission Hills, California 91345, except that the prior notice requirement shall include only those facilities that primarily serve the Catholic community
California	Los Angeles (East Los Angeles County)	Within a 15 mile radius of Queen of Heaven Mortuary, 2161 S. Fullerton Road, Rowland Heights, California 91748, except that the prior notice requirement shall include only those facilities that primarily serve the Catholic community
California	San Diego (North)	Within a 15 mile radius of El Camino Memorial – Pacific Beach, 4710 Cass Street, San Diego, California 92109
California	San Diego (Southern and Eastern)	Within a 15 mile radius of El Camino Memorial – Imperial Avenue, 3953 Imperial Avenue, San Diego, California 92113
California	Stockton	Within a 15 mile radius of Frisbie Warren & Carroll Mortuary, 809 North California Street, Stockton, California 95202
Florida	Clearwater	Within a 15 mile radius of Sylvan Abbey Funeral Home, 2853 Sunset Point Road, Clearwater, Florida 33759
Florida	Jacksonville	Within a 15 mile radius of Greenlawn Cemetery, 4300 Beach Blvd, Jacksonville, Florida 32219

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State	Area	Area Definition
Florida	Miami-Dade	Within a 15 mile radius of Cabellero Rivero Woodlawn Westchester Funeral Home, 8200 Bird Road, Miami, Florida 33155
Florida	Ocala	Within a 15 mile radius of Forest Lawn Funeral Home, 5740 South Pine Avenue, Ocala, Florida 34480
Florida	Orlando	Within a 15 mile radius of Baldwin-Fairchild Funeral Home - Ivanhoe Chapel, 301 Northeast Ivanhoe Boulevard, Orlando, Florida 32804
Florida	Port St. Lucie	Within a 15 mile radius of Byrd, Young, & Prill Funeral Home, 1170 S.W. Bayshore Blvd., Port St. Lucie, Florida 34983
Florida	Tampa	Within a 15 mile radius of Gonzalez Funeral Home, 7209 North Dale Mabry Highway, Tampa, Florida 33614, except that the prior notice requirement shall include only those facilities that primarily serve the Hispanic community
Florida	West Palm Beach	Within a 15 mile radius of Mizell-Faville-Zern Funeral Home, 6411 Parker Ave, West Palm Beach, Florida 33405
Louisiana	New Orleans	Within a 15 mile radius of Lake Lawn Metairie Funeral Home, 5100 Pontchartrain Boulevard, New Orleans, Louisiana 70124
Maryland	Washington, DC/ Maryland Suburbs	Within 15 miles radius of Danzansky-Goldberg Memorial Chapels, Inc., 1170 Rockville Pike, Rockville, Maryland 20852, except that the prior notice requirement shall include only those facilities that primarily serve the Jewish community
Mississippi	West Jackson	Within a 15 mile radius of Wright & Ferguson Funeral Home, 350 High Street, Jackson, Mississippi 39202
Missouri	Kansas City (North)	Within a 15 mile radius of White Chapel Funeral Home and Cemetery, 6600 Northeast Antioch Road, Gladstone, Missouri 64119
Missouri	South Kansas City, KS/ Missouri	Within a 15 mile radius of McGilley & Hoge Johnson County Memorial, 8024 Santa Fe Drive, Overland Park, Kansas 66204

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State	Area	Area Definition
North Carolina	Hickory	Within a 15 mile radius Hickory Funeral Home, 1031 11 th Avenue Blvd SE, Hickory, North Carolina 28602
North Carolina	New Bern	Within a 15 mile radius of Cotten Funeral Home, 2201 Neuse Boulevard, New Bern, North Carolina 28560
North Carolina	Raleigh	Within a 15 mile radius of Brown-Wynne Funeral Home, 300 Saint Mary's Street, Raleigh, North Carolina 27605
South Carolina	Columbia	Within a 15 mile radius of Dunbar Funeral Home, Dutch Fork Chapel, 7600 Woodrow Street, Irmo, South Carolina 29063
South Carolina	Greenville	Within a 15 mile radius of Woodlawn Funeral Home, 1 Pine Knoll Drive, Greenville, South Carolina 29609
Tennessee	Nashville	Within a 15 mile radius of Forest Lawn Funeral Home, 1150 South Dickerson Road, Goodlettsville, Tennessee 37072
Texas	Dallas	Within a 15 mile radius of Sparkman/Hillcrest Funeral Home, 7405 West Northwest Highway, Dallas, Texas 75225
Texas	Southeast Fort Worth	Within a 15 mile radius of Moore Funeral Home, 1219 North Davis Drive, Fort Worth, Texas 76012
Virginia	Charlottesville	Within a 15 mile radius of Teague Funeral Home, 2260 Ivy Road, Charlottesville, Virginia 22903
Virginia	Arlington-Alexandria	Within a 15 mile radius of Arlington Funeral Home, 4510 Wilson Boulevard, Arlington, Virginia 22203

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Prior Notice – Cemeteries

State	Area	Area Definition
California	San Diego (South)	Within a 20 mile radius of Cypress View Mausoleum & Mortuary, 3953 Imperial Avenue at 40 th Street, San Diego, California 92113
Florida	Clearwater	Within a 20 mile radius of Sylvan Abbey Memorial Park, 2853 Sunset Point Road, Clearwater, Florida 33759
Florida	Jacksonville	Within a 20 mile radius of Greenlawn Cemetery, 4300 Beach Boulevard, Jacksonville, Florida 32219
Florida	St. Petersburg/ Largo	Within a 20 mile radius of Serenity Gardens Memorial Park, 13401 Indian Rocks Road, Largo, Florida 33774
Florida	Miami-Dade	Within a 20 mile radius of Woodlawn Park Cemetery North, 3260 S.W. 8 th Street, Miami, Florida 33135
Florida	Ocala	Within a 20 mile radius of Forest Lawn Memory Gardens, 5740 South Pine Ave, Ocala, Florida 34480
Florida	Orlando (West)	Within a 20 mile radius of Glen Haven Memorial Park, 2300 Temple Drive, Winter Park, Florida 32789
Florida	Port St. Lucie	Within a 20 mile radius of Fernhill Memorial Gardens, 1501 South Kanner Highway, Stuart, Florida 34994
Florida	Spring Hill/ Hudson	Within a 20 mile radius of Florida Hills Memorial Gardens, 14354 Spring Hill Drive, Spring Hill, Florida 34609
Florida	Tampa	Within a 20 mile radius of Garden of Memories, 4207 East Lake Avenue, Tampa, Florida 33610
Georgia	Atlanta	Within a 20 mile radius of Fairview Memorial Gardens, 164 Fairview Road, Stockbridge, Georgia 30281 <u>OR</u> Georgia Memorial Park, 2000 Cobb Parkway SE, Marietta, Georgia 30060 <u>OR</u> Rose Haven Cemetery, 8640 Rose Ave., Douglasville,

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State	Area	Area Definition
		Georgia 30134
Georgia	North Augusta	Within a 20 mile radius of Hillcrest Memorial Park, 2700 Deans Bridge Road, Augusta, Georgia 30906
Louisiana	New Orleans	Within a 20 mile radius of Lake Lawn Park, 5454 Pontchartrain Boulevard, Louisiana 70124
Maryland	Annapolis	Within a 20 mile radius of Lakemont Memory Gardens, 900 West Central Ave, Davidsonville, Maryland 21035
Maryland	Baltimore	Within a 20 mile radius of Gardens of Faith Memorial Gardens, 5598 Trumps Mill Road, Baltimore, Maryland 21206
Missouri	Kansas City (North)	Within a 20 mile radius of White Chapel Funeral Home and Cemetery, 6600 Northeast Antioch Road, Gladstone, Missouri 64119
Missouri	South Kansas City, KS/ Missouri	Within a 20 mile radius of Mount Moriah Cemetery South, 10507 Holmes Road, Kansas City, Missouri 64131
North Carolina	High Point	Within a 20 mile radius of Guilford Memorial Park, 6000 High Point Road, Greensboro, North Carolina 27407
North Carolina	Raleigh	Within a 20 mile radius of Raleigh Memorial Park & Mitchell Funeral, 7501 Glenwood Avenue, Raleigh, North Carolina 27612
Pennsylvania	Philadelphia	Within a 20 mile radius of Whitemarsh Memorial Park, 1169 Limekiln Pike, Ambler, Pennsylvania 19002
South Carolina	Greenville	Within a 20 mile radius of Greenville Memorial Gardens, 7784 Augusta Road, Piedmont, South Carolina 29673
Tennessee	Kingsport	Within a 20 mile radius of East Lawn Memorial Park, 4997 Memorial Boulevard, Kingsport, Tennessee 37664
Tennessee	Knoxville	Within a 20 mile radius of Highland Memorial Park, 5315 Kingston Pike, Knoxville, Tennessee 37919

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State	Area	Area Definition
Texas	Dallas (South)	Within a 20 mile radius of Laurel Land Funeral Home & Cemetery, 6000 South R.L. Thornton Freeway, Dallas, Texas 75232, except that the prior notice requirement shall include only those facilities that primarily serve the African American community
Texas	Dallas	Within a 20 mile radius of Hillcrest Mausoleum & Memorial Park, 7405 West Northwest Highway, Dallas, Texas 75225
Texas	Southeast Fort Worth	Within a 20 mile radius of Moore Memorial Gardens, 1219 North Davis Drive, Arlington, Texas 76012
Texas	Houston	Within a 20 mile radius of Forest Park Lawndale, 6900 Lawndale Street, Houston, Texas 77023
Virginia	Richmond (Northwest)	Within a 20 mile radius of Westhampton Memorial & Cremation Park, 10000 Patterson Avenue, Richmond, Virginia 23238
Virginia	Richmond (South)	Within a 20 mile radius of Bermuda Memorial Park, 1901 Bermuda Hundred Road, Chester, Virginia 23831
West Virginia	Kearneysville	Within a 20 mile radius of Rosedale Cemetery, 917 Cemetery Road, Martinsburg, West Virginia 25404

Analysis to Aid Public Comment

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC
COMMENT****I. INTRODUCTION**

The Federal Trade Commission (“Commission”) has accepted for public comment, subject to final approval, an Agreement Containing Consent Orders (“Consent Agreement”) from Service Corporation International (“SCI”) and Stewart Enterprises, Inc. (“Stewart”). The purpose of the proposed Consent Agreement is to remedy the anticompetitive effects that would otherwise result from SCI’s acquisition of Stewart. Under the terms of the proposed Consent Agreement, SCI and Stewart are required to divest 53 funeral homes in 29 local funeral services markets and 38 cemeteries in 30 local cemetery markets to acquirers who receive the approval of the Commission. The proposed Consent Agreement also requires SCI and Stewart to divest all related assets and real property necessary to ensure that the buyer(s) of the divested facilities will be able to quickly and fully replicate the competition that would have been eliminated by the merger. Finally, the Commission, SCI, and Stewart have agreed to an Order to Hold Separate and Maintain Assets (“Hold Separate Order”) that requires SCI and Stewart to maintain and hold separate certain facilities to be divested pending their final divestiture pursuant to the Consent Agreement.

The proposed Consent Agreement has been placed on the public record for thirty days (“Public Comment Period”). During this period, interested persons can review the proposed Consent Agreement and file comments with respect to the competitive effects of the Merger and the proposed remedy. At the end of the Public Comment Period, the Commission will review and afford appropriate consideration to all comments filed. The Commission may then determine whether to modify the proposed Consent Agreement, issue the Consent Agreement as final without modifications, or withdraw the Consent Agreement in its entirety.

On May 29, 2013, SCI and Stewart executed a definitive merger agreement pursuant to which SCI agreed to acquire Stewart in an all-cash transaction valued at approximately \$1.4

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billion (the “Merger”). The Commission’s complaint alleges that the proposed Merger, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, removing an actual, direct, and substantial competitor from 29 funeral services markets, and 30 cemetery services markets. The proposed Consent Agreement would remedy the alleged violations by requiring divestitures to replace the competition that otherwise would be lost in these markets as a result of the Merger.

II. THE PARTIES

SCI is the largest funeral and cemetery services provider in North America. SCI owns and operates more than 1,449 funeral-services locations and 374 cemeteries (including 213 combined funeral-services/cemetery locations), and 100 crematories in 44 states and the District of Columbia. SCI’s 2012 revenue from all operations totaled approximately \$2.41 billion.

Stewart is the second largest funeral and cemetery services provider in the United States. Stewart owns and operates 217 funeral homes and 141 cemeteries in 24 states and Puerto Rico. For the 12 months ending October 31, 2013, Stewart’s total revenues were approximately \$524.1 million.

III. FUNERAL AND CEMETERY SERVICES

SCI’s proposed acquisition of Stewart presents substantial antitrust concerns in two relevant product markets: (1) funeral services; and (2) cemetery services. Funeral services include all activities relating to the promotion, marketing, sale, and provision of funeral services and goods, including, but not limited to, goods and services used to remove, care for, and prepare bodies for burial. Funeral services do not include cremation services because consumers generally do not substitute cremation services for burial services based upon price. Since many consumers primarily choose their final disposition based on their personal or religious views, these consumers do not view cremation services as a viable substitute for funeral services. Thus, a hypothetical monopolist of funeral services could

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profitably impose a small but significant and non-transitory increase in price (“SSNIP”) because most consumers would not switch to cremation services. Further, the competitive conditions for cremation services are substantially different than for funeral services.

Cemetery services include all activities relating to the promotion, marketing, sale, and provision of property, goods, and services to provide for the disposition of human remains in a cemetery, whether by burial, entombment in a mausoleum or crypt, disposition in a niche, or scattering cremated remains on cemetery grounds.

In some local markets, certain funeral-service and cemetery-service locations cater to specific populations by focusing on the customs and rituals associated with one or more religious, ethnic, or cultural heritage groups. In such situations, the provision of funeral or cemetery services targeted to such populations may constitute distinct and relevant product markets. Thus, in Los Angeles, California, for example, the provision of funeral services to Catholic consumers constitutes a relevant product market in which to analyze the competitive effects of the Merger. Likewise, in South Dallas, Texas, the provision of cemetery services to the African-American community constitutes a relevant product market in which to analyze the competitive effects of the Merger.

The 29 funeral services markets and 30 cemetery services markets at issue in this transaction are relatively local in nature. Indeed, data analysis and evidence gathered from market participants indicate that purchasers of both “preneed” and “atneed” funeral and cemetery services¹ typically choose a local funeral home or cemetery in order to make the memorial service, burial, and subsequent visitation more convenient.

The 29 geographic markets in which to analyze the effects of the Merger with respect to funeral services are: (1) Mobile, Alabama; (2) Auburn, California; (3) East Los Angeles County,

¹ “Preneed” refers to funeral and cemetery arrangements purchased prior to actual need (*i.e.*, death). “Atneed” refers to funeral and cemetery arrangements purchased after a death has occurred.

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California (Catholic); (4) Los Angeles (Long Beach), California (Catholic); (5) Los Angeles (San Fernando Valley), California (Catholic); (6) Palmdale/Lancaster, California; (7) Northern San Diego, California; (8) Southern and Eastern San Diego, California; (9) Clearwater, Florida; (10) Jacksonville, Florida; (11) Miami-Dade County (Homestead), Florida; (12) Miami-Dade County (Miami), Florida; (13) Ocala, Florida; (14) Orlando, Florida; (15) Port St. Lucie, Florida; (16) Tampa, Florida (Hispanic); (17) Overland Park, Kansas; (18) South Kansas City, Kansas/Missouri; (19) New Orleans, Louisiana; (20) West Jackson, Mississippi; (21) North Kansas City, Missouri; (22) New Bern, North Carolina; (23) Raleigh, North Carolina; (24) Columbia, South Carolina; (25) Nashville, Tennessee; (26) Dallas, Texas; (27) Southeast Fort Worth, Texas; (28) Arlington-Alexandria, Virginia; and (29) Washington, D.C./Maryland suburbs (Jewish).

The 30 geographic markets in which to analyze the effects of the Merger with respect to cemetery services are: (1) South San Diego, California; (2) Jacksonville, Florida; (3) Miami-Dade County, Florida; (4) Ocala, Florida; (5) West Orlando, Florida; (6) Port St. Lucie, Florida; (7) Spring Hill/Hudson, Florida; (8) St. Petersburg/Largo, Florida; (9) Tampa, Florida; (10) Atlanta (Cobb County), Georgia; (11) Atlanta (Fairburn/College Park), Georgia; (12) Atlanta (Henry County), Georgia; (13) New Orleans, Louisiana; (14) Annapolis, Maryland; (15) Baltimore, Maryland; (16) North Kansas City, Missouri; (17) South Kansas City, Kansas/Missouri; (18) High Point, North Carolina; (19) Raleigh, North Carolina; (20) Philadelphia, Pennsylvania; (21) Greenville, South Carolina; (22) Kingsport, Tennessee; (23) Knoxville, Tennessee; (24) Dallas, Texas; (25) South Dallas, Texas (African American); (26) Southeast Fort Worth, Texas; (27) Houston, Texas; (28) Northwest Richmond, Virginia; (29) South Richmond, Virginia; and (30) Kearneysville, West Virginia.

Each of the relevant funeral and cemetery services markets is highly concentrated, and the proposed Merger would significantly increase market concentration and eliminate substantial direct competition between two significant funeral and cemetery services providers. Under the Herfindahl-

Analysis to Aid Public Comment

Hirschman Index (“HHI”), which is the standard measure of market concentration under the 2010 Department of Justice and Federal Trade Commission Merger Guidelines, an acquisition is presumed to create or enhance market power or facilitate its exercise if it increases by more than 200 points and results in a post-acquisition HHI that exceeds 2,500 points. SCI’s merger with Stewart creates market concentration levels well in excess of these thresholds in the local markets listed above.

The anticompetitive implications of such significant increases are reinforced by evidence of intense head-to-head competition that would be eliminated by the proposed Merger. This competition between SCI and Stewart benefits consumers in the form of lower prices, improved products, and better service. Left unremedied, the proposed Merger likely would cause anticompetitive harm by enabling SCI to profit by unilaterally raising the prices of funeral and cemetery services, as well as reducing its incentive to improve quality and provide better service.

The high levels of concentration also increase the likelihood of competitive harm through coordinated interaction. In several funeral and cemetery services markets, coordinated interaction or tacit collusion may be likely due to the transparency of important competitive information, high concentration, and relatively small number of competitors.

New entry is unlikely to deter or counteract the anticompetitive effects of the proposed Merger. Among other entry barriers, both heritage (the consumer’s tendency to use the same funeral home or cemetery for multiple generations) and reputation pose substantial barriers to entrants attempting to establish new funeral-services locations. The availability of suitable land and local zoning, health, and environmental regulations significantly hinder the ability of firms to enter into new cemetery-services locations. As a result, new entry sufficient to achieve a significant market impact is unlikely to occur.

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IV. THE PROPOSED CONSENT AGREEMENT

The proposed Consent Agreement remedies completely the anticompetitive effects of the Merger by requiring the divestiture of SCI or Stewart funeral homes, cemeteries, and related assets in each relevant geographic market to a Commission-approved buyer (or buyers) within 180 days of SCI acquiring Stewart. Specifically, the proposed Consent Agreement requires the divestiture of 53 funeral-services facilities and 38 cemeteries, as well as related equipment, customer and supplier contracts, commercial trade names, and real property in the funeral and cemetery services markets at issue in this transaction. The assets to be divested include all of the associated assets and real property necessary for a Commission-approved buyer to independently and effectively operate each facility. See Appendix A to the proposed Decision and Order for a complete list of the divestiture assets.²

The proposed Consent Agreement contains several provisions designed to ensure that the divestitures are successful. First, the Commission will evaluate the suitability of the proposed purchasers of the divested assets to ensure that the competitive environment that would have existed but for the transaction is replicated by the required divestitures. If SCI fails to divest the assets within the 180 day time period to a Commission-approved buyer, the Consent Agreement permits the Commission to appoint a divestiture trustee to divest the assets. Second, SCI is required to provide transitional services to the Commission-approved acquirer. These transitional services will facilitate a smooth transition of the assets to the acquirer, and ensure continued and uninterrupted operation of the assets during the transition. Third, the Consent Agreement requires SCI to remove any contractual impediments that may deter the

² When reviewing Appendix A to the proposed Decision and Order, please note: 1) the column marked “FH/CEM” denotes the area of competitive concern as funeral homes (“FH”), cemeteries (“CEM”), or both (“FH/CEM”); and 2) in the far right column marked “Property Name & Address,” those properties marked with a “(c)” next to the property name indicates that the facility is a “combo” (i.e., both a funeral home and cemetery). In all instances in which a combo asset is identified, the facility must be divested in its entirety regardless of whether the competitive concern is in funeral homes, cemeteries, or both.

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current employees of the divested facilities from accepting offers of employment from any Commission-approved acquirer and to obtain all consents necessary to transfer the required assets. The Agreement also appoints a Hold Separate Trustee to monitor SCI's compliance with the terms of the Agreement. Finally, the Commission will have an opportunity to review any attempt by SCI to acquire any funeral or cemetery services asset in any of the geographic markets at issue, as well as certain markets where any future acquisition by SCI would likely cause substantial competitive harm. This prior notice provision has a term of ten years.

The Hold Separate Order requires the parties to maintain the viability of the divestiture assets as competitive operations until each facility is transferred to a Commission-approved acquirer. After SCI acquires Stewart, the Hold Separate Order requires that SCI segregate the 91 locations to be divested separate and apart from SCI's own death services business, and maintain these assets as independent competitive enterprises pending divestiture. To facilitate this process, the Hold Separate Order allows Paul A. Houston, the proposed Hold Separate Trustee, to appoint one or more Hold Separate Managers to assist with the management the daily operations of the held separate businesses in an effort to ensure competition in the relevant geographic markets. Additionally, the Hold Separate Order obligates SCI to provide sufficient working capital to the held separate businesses and to provide continued support services as needed in the interim. Overall, the Hold Separate Order and the Consent Agreement are designed to safeguard competition in the provision of death care services in these markets immediately post-acquisition.

The sole purpose of this analysis is to facilitate public comment on the Consent Agreement. This analysis does not constitute an official interpretation of the Consent Agreement or modify its terms in any way.

Complaint

IN THE MATTER OF

NISSAN NORTH AMERICA, INC.CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket No. C-4454; File No. 122 3010
Complaint, May 1, 2014 – Decision, May 1, 2014

This consent order addresses Nissan North America, Inc.'s advertising, marketing, and sale of the Nissan Frontier pickup truck. The complaint alleges that respondent has marketed the Nissan Frontier to consumers through the "Hill Climb" advertisement, which depicts a Nissan Frontier pickup truck rescuing a dune buggy that is trapped in sand on a steep hill. The complaint further alleges that respondent falsely represented that the Hill Climb advertisement accurately represents the performance of an actual, unaltered Nissan Frontier pickup truck under the depicted conditions. The consent order prohibits respondent from misrepresenting, in the context of the advertisement as a whole, any material quality or feature of any Nissan-branded pickup truck through the depiction of a test, experiment, or demonstration.

Participants

For the *Commission*: *Matthew D. Gold* and *Evan Rose*.

For the *Respondent*: *Dominick Cromartie*, *Stuart Friedel*, *Joseph Lewczak*, and *Ronald Urbach*, *Davis & Gilbert LLP*, and *Amanda Reeves*, *Latham & Watkins LLP*.

COMPLAINT

The Federal Trade Commission, having reason to believe that Nissan North America, Inc., a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Nissan North America, Inc., is a California corporation with its principal office or place of business at One Nissan Way, Franklin, Tennessee 37067.