

Memorial Business Journal

The weekly resource for progressive funeral directors, cemeterians and cremationists



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This Issue:

- Rewriting the Death Care Blueprint **P. 1**
- Getting in Front of the Curve **P. 4**
- Small, Mid-Size Business Unit Among Options
For SCI Following Keystone Acquisition **P. 6**
- Associations to Weigh in on Rush Bill **P. 8**
- Getting an Editor's Attention
for Your News Item **P. 10**
- The Notebook **P. 11**
- From the Editor's Desk **P. 12**

Rewriting the Death Care Blueprint

Are We On the Road to Recovery or Just Spinning Our Wheels?

TRENTON, N.J. – This first pre-launch issue of the Memorial Business Journal is as good a forum as any to assess where death care is as a profession, in light of the top three challenges facing practitioners. While the recession has cast a comprehensive shadow across all walks of life, the economy was only one problem facing funeral service. Prior to the 1) economic crisis, funeral service professionals were dealing with a 2) declining death rate and 3) coming to grips with rising cremation rates.

News Item: Recession Over. According to a National Association of Business Economics (NABE) survey of top economists from Wall Street, major U.S. corporations and academia, the two-year recession is over but unemployment will keep any growth in check. Thirty-five (81 percent) of the 43 economists surveyed believe the recovery has begun. Four (9 percent) believe the recession is continuing while the remaining four are not sure.

“Slow” and “painful” were the words used by those economists surveyed by NABE, suggesting that the effects of the recession will be felt by businesses and individuals for years to come. More than half of those surveyed believe that the jobs lost since the beginning of the recession will not be recovered until 2012.

The U.S. unemployment rate stands at about 10 percent, while normal unemployment hovers around 5 percent. Those adopting a “glass is half full” perspective might say that even with 10 percent unemployment, 90 percent are still employed.

However, a significant number of those people in the 90 percent category have had to implement cutbacks, which affects you as a businessperson and your client families on a daily basis.

So what does the evolving economic news mean for the average funeral home? While no one is suggesting that we are anywhere near business as usual, you are still in business, and by its very definition, businesses need planning. What funeral homes should *not* do is get carried with any growth signals and go out and spend tons of money unnecessarily. Positive eco-

Welcome

This is the first of three “pre-launch issues” of the **Memorial Business Journal**. These issues will be available free of charge upon request, as well as downloadable from our web site, www.memorialbusinessjournal.com.

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conomic news doesn't mean you put off things that need to be done, but from an employment standpoint, and from a capital expenditures standpoint, funeral directors need to move forward, albeit with baby steps.

Action Item: Identify your capital expenditure needs. This is the first step in a long-term plan for your business. What are the long-term projects you believe are worth pursuing? Do you need to upgrade the appearance of your facility? Expand your facility? Do you need new vehicles?

According to David Nixon, president of Nixon Consulting, Chatham, Ill., funeral homes have to look at capital expenditures that they are hoping to make — maybe not this year, but again, the goal is to have a plan. “If you don't have a capital expenditures budget and plan, you should,” Nixon said. “Although its going to be significantly muted moving forward over the next year or so, there needs to be a plan.”

To get the economy rolling people need to spend money, but who wants to be the expenditure leader? As mentioned earlier, with death care it is not just the economy that is having an impact, but it is the death rate. For some funeral homes, calls are off 10 to 20 percent. “Even those funeral homes that have increased volume, I am still advising caution on expenditures,” Nixon said. “With the average funeral home profit is about 5-6 percent, there's really not a lot of margin.”

Funeral directors are for the most part financially resilient. They tend to watch their spending depending on the type of year they are having. The checkbook is a rough indicator of how much money you've got and what you can spend.

“I am thinking that this slow period we've gone through is going to open up and the death rate will return to a more normal position,” Nixon said. “I think with more normal volume, [funeral directors] still need to watch what they are spending. Many can have a decent year maybe not to salvage 2009, but a better year in 2010.”

Action Item: [Re-]build your cash reserves. While those who had planned for a rainy day, might not have suffered as much as those who didn't, don't overlook the fact that you have to rebuild your reserve funds. “Put \$100 per call away in a separate account,” Nixon suggests. “You need to have a cushion. If the amount on the checkbook is running low and that is all the reserves a business has, that is not a real comfortable position.”

When the price of gasoline spiked to \$4 a gallon in the summer of 2008, consumers changed their way of thinking and developed what can be described as a bunker mentality. This was forced into play because when one doesn't have any disposable income to spend, the effects are passed along the supply line. This mind set was a near death blow to the already reeling U.S. auto industry. Small dominoes fell by the wayside. The movie box offices suffered, local restaurants and shops closed, and big name businesses that were around for many years filed for bankruptcy.

Death care was not immune. News articles told the story of how the death care business, which was once thought of as recession-proof, was anything but. Families sold burial plots for quick cash. Burial families looked to cut costs, opting for a 20 gauge casket. Cremation was increasingly looked upon as the low cost form of disposition.

Action Item: Find the balance between the bunker mentality of not doing anything and proceeding with caution. The bunker mentality is not going to keep employees, it is not going to sustain a business. The term companies used when discussing layoffs was that they were “right-sizing.” Those businesses that planned for their facility and personnel to handle the absolute busiest time, even if it is only twice a year, were forced to make some hard choices.

One of the principles of investment has been to invest in something you know. Funeral directors know funeral service, so investing in their own business is a good idea as long as they are careful. Where funeral homes need to invest is in areas where they see the fastest and greatest rate of return. Topping the list is in the area of personnel. Recognize your best people and do what you can to keep them.

Action Item: Watch what you are spending on merchandise. As the price of caskets increased 3 to 4 percent in the past year, which is still higher than the industry's typical sales growth rate of 3 percent, funeral directors have to control this spiral on the merchandise side by watching how much they spend.

Not only did the economy have an increasing influence on the type of disposition, it impacted product. A family that a year or two ago would have purchased a stainless steel casket, would now opt for an 18 gauge casket. “We're seeing a definite move toward more 20 gauge caskets being sold,” said Nixon. “This just didn't happen overnight, but the trend has developed over the last 5 to 7 years. We're kind of getting to an apex here of where you have consumers, to a degree, watching what they are spending. The economy amplifies this behavior and the death rate has been spotty at best.”

Action Item: Control, better yet, eliminate receivables. Earlier this week a story appeared in newspapers across the country that coroners and medical examiners are reporting spikes in the number of unclaimed bodies and indigent burials. While many funeral homes do assist their local, county and state governments in the disposition of indigents, it is not these services that are putting a financial hardship on the business as much as the ones that walk away from their financial obligation.

Consumers claim financial situations and the funeral directors are listening to them. “Many funeral homes are having difficulty with receivables they are unable to collect,” Nixon said. “It seems to me that one of the problems facing the industry is that no one knows how to judge who is the worthy poor or the needy and who isn’t.”

Historically the payment policy at too many funeral homes have been extremely loose and sporadically enforced. Receivables have not been a problem at Heffner Family Owned Funeral Homes and Crematory, York, Pa., for the past 9 years. On June 26, 2001, the firm unveiled its payment policy which brought down the firm’s receivables to zero.

Quite simply, Heffner’s accepts 11 forms of payment are:

- Cash
- Check
- Debit Card
- Visa
- MasterCard
- Discover
- Diners Club
- American Express

(With good credit and payment history, credit card companies will usually be willing to make an emergency credit increase to cover funeral expenses.)

- Insurance Assignment of a Verifiable Policy
- Advance Payment by a forwarding or receiving Funeral Home
- Pre-Paid Advance Planning

“We have the payment policy framed and prominently on display in the arrangement areas,” said Ernie Heffner, president of Heffner Family Owned Funeral Homes and Crematory. The payment policy is on the firm’s web site.

As part of all arrangements, Heffner’s arrangers present a payment options form to the responsible parties in the following manner. “After reviewing the arrangements requested, simply begin by saying, ‘there are a variety of ways to handle these expenses,’” Heffner said. Present the form and then say, “I will excuse myself for a few minutes while you decide which option is best for you.” The arranger leaves the room to allow the family some time to consider their options and to make a selection.

“It is possible that some clients may decide to go to another firm that will allow them to transfer their problem on to the books of that firm,” Heffner said. “That’s part of the difficult business decision.”

But should a family walk out in objection to such a payment policy, the potential problem account goes with them.

As for needy families, Heffner gives his associates the latitude to financially assist the worthy poor by discounting services to meet their financial circumstances. However, the terms of payment still apply.

Action Item: Proceed with caution. While cremation is still rising and impacting the business’s bottom line, funeral directors are going to have to battle no matter what the economy does or what the death rate does. Economy of scale suggests that there are some opportunities on the horizon and that is why funeral directors need to be operating smart to gain advantage. Economic observers say there is reason to be optimistic that next year we will see a return to more normal volume, more consumer confidence and less strain on what they are spending. Down the road there will be an inflationary twinge as the nation looks at paying off its significant debt.

“I think the prudent owner is going to be cautious of their overall spending over the next few years,” Nixon said. “It is always wise to watch what you spend. We shouldn’t get carried away that the barn door is open, the economy is recovering, consumers are more confident, let’s run amuck. That wouldn’t be a positive step. I am hoping that the banks, lending institutions open up a bit. That’s why things aren’t growing.”

Getting in Front of the Curve

V's, W's and Square Roots — Symbols of Economic Recovery And How to Use Them to Your Financial Advantage

NEW YORK CITY, N.Y. – There is a great debate raging by economists and those in government as to what kind of economic recovery we can expect. Last week, stocks flirted with 2009 highs, suggesting that the U.S. economy is beginning to show signs that we are in a sustained period of recovery. Muting that optimism is a national unemployment rate nearing double digits, with no indication that it will go down any time soon. In fact, many economists believe that the rate might still tick upward a little higher.

“That’s not unusual in most recoveries, employment is really a lagging indicator,” said Robert Meyer, managing director of The Roosevelt Investment Group. “When you think about it, employers are in a 31- 32-hour average work week. Before they add new employees, the average work week would be increased to 35 or 40 hours. Adding new employees is the last step in what they typically do. Because unemployment might continue to rise over the next couple of quarters, it doesn’t mean that we are not in an economic recovery.”



Adam Sheer

Robert Meyer

The market tends to look about 6-9 months down the road. “If we take that as a fair assumption, the market, temporarily, and hopefully permanently, bottomed on March 9,” Meyer said. That happened to be the day when Citi Bank started making a profit, which served as a sign that the market was getting better. “The market took off after that and has been doing better,” he added. “If history holds, and the market in March suggested things were getting better, the economic indicators should really reflect it by the end of 2009.”

The question is, what kind of recovery? Discussions range from a V-shaped recovery (imagine the economy as the left side of a V, trending down and bottoming out). Some argue we’re in the right side of the V, trending upward. Others argue that the recovery could be W-shaped, that we’re seeing a good increase from the lows but the economy will go back down again and crater before starting a second ascent. Just to add some color to this equation, Meyer tends to think the recovery will mirror a square root symbol. If we remember algebra class, the square root symbol went down, rebounded up like a small V, and then it tends to go level off in a straight line.

“We can see some very strong indications for the next 3 or 4 quarters, after that we think the economy will demonstrate some more modest growth and not continue this very rapid pace that will take place over the next year or so,” Meyer said. The recession sparked a lack of confidence in the stock market. In late 2007 and 2008 investors pulled their money out of the stock market and put it into money market funds. Quite simply, money flowed out of equities and into fixed income products. There hasn’t been a lot choice in investments, which have ranged from very unappealing interest rates in money markets and extremely low rates in the bond market.

Action Item: Assess Your Long-Term Financial Goals. With many economic indicators pointing toward recovery and the market showing more stability, liquidity may be less of an issue, which will allow business managers or individuals to free up some cash that can be used for growth opportunities. “I think that it is very important that the investor focuses on his or her long-term goals,” said Adam Sheer, president of The Roosevelt Investment Group. “It is too easy to be seduced or repelled by what the markets are doing short term. It really can be a lot of noise. For monies that a funeral home or cemetery owner won’t need for 5 to 7 years or so, that portion really belongs in the stock market. Even though it will fluctuate, if liquidity is not needed, over time, it is the best way that we know of to grow wealth.”

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“One issue with many preneed insurance products is that it is difficult to keep up with inflation in the funeral home industry. That does not mean that insurance is not appropriate. I believe that long-term money would be appropriate for equities as long as the owner has the stomach to handle the vicissitudes of the market.”

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For liquidity needs shorter than those 5 to 7 years, Sheer recommends high grade bonds, some CDs or money market funds, even though the returns are not high. “If liquidity is critical the investor has to make sure [he or she] is in instruments that are not going to fluctuate violently when they need the money,” said Sheer, who has served as president of the Suppliers to the New York State Association of Cemeteries.

When considering a preneed trust or a merchandise trust, invest according to long-term goals. “People really need to understand their goals, understand their risk tolerance and understand their liquidity needs and to invest accordingly,” Sheer said. “Don’t move between one asset class and another based on where you think the market is going because it is a seductive way to invest but it ends up being a trap more often than not.

“One issue with many preneed insurance products is that it is difficult to keep up with inflation in the funeral home industry. That does not mean that insurance is not appropriate.” Sheer added. “I believe that long-term money would be appropriate for equities as long as the owner has the stomach to handle the vicissitudes of the market.”

Opportunities in the Stock Market

So where are the opportunities in the stock market? Meyer takes the position that companies that are quite cyclical in nature and, ironically, those that have done the worst in this economic recession, will likely be the ones who help lead the way out — and lead the way out most dramatically. “We’re looking at companies that tend to be early cycle companies,” Meyer said. “Their products are such that in the beginning of any type of recovery will be in great demand, such as ‘rust belt’ companies including chemical, paper and some energy companies. These companies really saw their revenues and demand for their products fall off a cliff and have started to come back very strongly.”

Meyer also urges investors to have a global outlook. “We are most impressed with the growth that we think will come from some of the emerging countries. We have a number of companies that have foreign operations in China and the growth indications there are really quite phenomenal.” He added that the awarding of the 2016 Olympic Games to Rio de Janeiro will prove a boost to Brazilian companies. “We think the Rio De Janeiro Olympics in 2016 will have a lot more meaning than just two weeks of games in seven years, we think it is symptomatic of what is going to happen in that country to that economy. We’re keeping our eye on how we can participate in further growth in that economy.”

Out of what is known as the BRIC countries (Brazil, Russia, India and China), India may end up being the fastest grower and it might be at the cheapest valuation, according to Sheer. “Their banks are in great shape, they are pretty heavily regulated, and their percentage of nonperforming loans is very low,” he said. “India has 300 million people in its middle class, and it is a democracy, all these things together are very exciting for us.”

With the government here and those around the world trying to stimulate economies by resorting to the printing press for currency, there is a lot of concern that inflation will come back in a substantial way. If that happens, there is talk that the very low rates of interest that investors are getting on fixed-income products are going to be substantially different. “Our feeling right now is similar to our outlook for the stock market, is that the economy has such unused capacity that it is very difficult to imagine inflation really becoming a serious problem over the next 12 months-plus,” Meyer said. “We at least are in the camp of not thinking interest rates are going to rise dramatically. When and if they do, the dual question one faces is; Do you put more money in a fixed income product and at the same time is that going to hurt the stock market? Probably a little bit of both.”

Meyer emphasizes that he is not looking at a dramatic rise in inflation. “We think the bond market right now is pricing in an increase in Fed interest rates probably in mid-2010 at the earliest. For those people who think ‘I am going to keep my liquidity in a money market because I am going to get the really juicy bond returns in the next 3 to 6 months because inflation is going to be horrible,’ I wouldn’t count on it.”

Small, Mid-Size Business Unit Among Options For SCI Following Keystone Acquisition

HOUSTON – On paper, Service Corporation International’s \$256 million acquisition of Keystone North America makes a lot of sense. That’s why news of the deal didn’t surprise many industry observers. The majority of SCI’s holding are in the more dense urban areas, while Keystone’s holdings are focused in small rural and mid-size markets.

Since there isn’t much geographic overlap, there won’t be much need for Federal Trade Commission mandated divestitures, as was the case in 2006 when SCI agreed to purchase Alderwoods. Instead, the interest in this deal is how all of the pieces will fit under the SCI umbrella, since the philosophy behind operating a funeral home in New York City is much different than operating one in say, Holley, N.Y. Point of interest, while the state of New York contains the most Keystone properties in the deal, they are not exactly located on Broadway.

“I think SCI has been looking for an entry to get back into the rural markets and is committed to being a kinder, gentler owner in the smaller markets,” said Tom Johnson, president of Johnson Consulting Group, Scottsdale, Ariz.

Already, there has been much talk within the industry about SCI taking the Keystone properties and forming a separate operating unit that will focus on the funeral homes in the smaller and mid-size markets. In fact, SCI has about 300 locations of its own that are very similar in scope and nature to the Keystone properties where, because of their more rural location, the facilities can’t really share resources like coaches or embalming services.

“The idea that we would put those all together in some sort of operating unit certainly seems to make some sense,” said Lisa Marshall, managing director of corporate communications for SCI. Although she is quick to emphasize that no decisions have been made, nor will they until after the transaction is finalized.

While much can happen between now and the first quarter of 2010 when the deal is expected to be finalized, key members of the Keystone management team, including President and CEO Steve Tidwell are expected to join SCI, with Tidwell being an obvious choice to head up such a unit — if SCI decides to go that route.

Keystone has earned a reputation in funeral service for its service model and it was helped that its funeral home owners and managers were well known in the communities in which they served. For this acquisition to best work for SCI, the Keystone philosophy needs to be integrated into any plans for those properties.

“We’ve worked with the SCI management team in the last several years, their management team is pretty impressive,” Johnson said. “I think there is a different culture down there than in years past and I think they will give this a tremendous effort to make this work. I hope it does, I think it will be good for everybody.”

The transaction may have given other funeral directors in small and mid-size markets something to think about.

“We have been involved in the buying and selling of funeral homes for a long time now. In recent years, with SCI basically being out of the market for smaller firms, there have been circumstances where there have been no buyers for a

North American Funeral Home Operator Scorecard

Service Corporation International, Houston — Owns and operates 1,264 funeral homes and 365 cemeteries in 43 states, eight Canadian provinces, the District of Columbia and Puerto Rico

Stewart Enterprises New Orleans, La. — Owns and operate 219 funeral homes and 140 cemeteries in 24 states.

StoneMor Partners, Levittown, Pa. — Owns and op-

erates 235 cemeteries and 58 funeral homes in 27 states and Puerto Rico

Keystone North America, Tampa, Fla. — Owns and operates 199 funeral homes and 15 cemeteries operating in 31 states and the Province of Ontario

Carriage Services, Houston — Owns and operates 134 funeral homes and 32 cemeteries in 27 states

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— Tom Johnson

firm,” Johnson said. “That changes now. This is not at all bad news for the small- to medium-size funeral director in rural America. Now they [SCI] could give [small to medium-size funeral home owners] an option they didn’t have in the last several years.”

“Keystone has done a good job with their operations as far as maintaining and increasing market share, if they can continue to do that with Keystone locations and with the locations I think SCI will throw into that group,” Johnson said. “It will be interesting to watch.”

And SCI may not be finished yet. “SCI has been going after some of the regional, higher profile acquisitions,” said David Nixon, president of Nixon Consulting, Chatham, Ill. “It wouldn’t surprise me if they eventually go after Carriage and StoneMor.”

Terms of the Agreement

Under the terms of the agreement, SCI has agreed to offer to purchase all the outstanding common shares of Keystone, including those represented by income participating securities, at \$8 per share (Canadian dollars), for a total estimated transaction value of approximately \$256 million.

The offer price represents a 38 premium to Keystone's most recent 50-day average share price and is conditioned upon, among other things, the tender of at least two-thirds of the outstanding shares of Keystone's common shares, calculated on a fully diluted basis. The boards of directors of both companies have unanimously approved the transaction.

The transaction, which comes on the heels of SCI's failed attempt last year to land Stewart Enterprises, is anticipated to close in the first quarter of 2010, subject to customary closing conditions, including expiration of the waiting period under the Hart-Scott-Rodino Antitrust Act.

According to a press release, SCI believes that it has a number of debt capital market alternatives and will determine the optimal funding structure consisting of a combination of long-term permanent debt and short-term pre-payable debt prior to the close of the transaction. Upon closing, the transaction is expected to be immediately accretive to SCI's cash flow and earnings in 2010.

SCI owns and operates 1,264 funeral homes and 365 cemeteries in 43 states, eight Canadian provinces, the District of Columbia and Puerto Rico. Keystone has 199 funeral homes and 15 cemeteries operating in 31 states and the Province of Ontario.

“Our current portfolio has over 300 similarly positioned businesses which consistently generate solid margins and predictable cash flows,” said SCI President and CEO Tom Ryan in a press release. “We believe the opportunity to nearly double our presence in this attractive segment through an accretive transaction will generate significant value for our shareholders.”

The release also quoted SCI Executive Vice President and Chief Operating Officer Mike Webb, who said, “The migration of the baby boomer generation to suburban and rural areas over the coming years will represent a significant opportunity for growth. This transaction ... will position us as the unparalleled leader in this market with over 500 businesses, generating more than \$350 million in revenues and serving over 68,000 families per year.

Tidwell added, “Clearly the potential of this business combination is compelling. With this enhanced operating platform and the combined talent of our two organizations, we believe we can grow this business segment organically and through strategic acquisitions at very reasonable prices, further leveraging our scale in pursuit of customers that value our services.”

Associations to Weigh In on Rush Bill

WASHINGTON, D.C. – When U.S. Rep. Bobby Rush (D-Ill.) introduced a bill on Sept. 22 designed to strengthen funeral home and cemetery regulation, no one could claim they were blindsided by the action. And while the bill does include provisions which amount to basic good business practices, it may also prove to be a catalyst to launch another round of rule making intended to strengthen and/or expand the Federal Trade Commission's Funeral Rule.

There has been a pattern where legislators introduce bills following nightmarish scandals within funeral service in an attempt to prevent the misdeeds from happening again and intensifying the punishment for those who stray from the regs.

In 2002, there was a wave of funeral legislation, albeit on the state level, following the Tri-State Crematory scandal where the manager of the Noble, Ga., crematory stacked hundreds of bodies on the crematory's property rather than cremate them. This scandal was shortly after a discovery at the Menorah Gardens Cemetery in Florida where workers were accused of displacing bodies to re-sell graves.

Sen. Chris Dodd (D-Conn.) and the former representative from Florida, Mark Foley, made several attempts to get the Dodd Bill, as it was known, passed by Congress, including one attempt on the heels of the Tri-State scandal. The Dodd Bill would have codified the provisions of the FTC's Funeral Rule into federal law.

During an April 26, 2002, hearing before the Senate Subcommittee on Children and Families, Dodd said, "The award-winning television program 'Six Feet Under' has popularized the funeral industry and has exposed the public to some of the more interesting contemporary aspects of the business of caring for the dead. Americans are talking about the death care industry around the kitchen table and around the water cooler at work. Unfortunately, all the stories they talk about are not fictional accounts from the TV show. There has been a rash of deeply troubling stories in newspapers across the country. News reports from Noble, Georgia; Hamden and Hartford, Connecticut; Riverside, California; Hilo, Hawaii; and numerous other places around the country have raised serious concerns about the industry.

"Americans are now intimately familiar with stories about cremations that never took place and burials that should have happened, but never did. We've read about inspectors who didn't inspect and families who have been told that the ancient tenets of their religious faiths would be respected in caring for a deceased loved one, only to discover that those tenets were ignored."

Fast-forward to 2009, Rush's Bereaved Consumers Protection Act grew out of last summer's scandal at the Burr Oak Cemetery in Alsip, Ill., where four former employees allegedly dug up remains and dumped the bodies in order to resell the plots. The four have been charged with several felonies, including desecration of human remains, conspiracy to dismember human bodies and theft.

Rush, who is chairman of the House Subcommittee on Commerce, Trade and Consumer Protection, said his bill is in response to the allegations made at Burr Oak Cemetery. In general, the bill calls on the FTC to "prescribe rules prohibiting unfair or deceptive acts or practices in the provision of funeral services."

Among its provisions would be to improve record keeping and make the records available to federal, state and local officials for review — which amounts essentially to good business practices.

Although the International Cemetery Cremation and Funeral Association has not taken an official position on the bill, Robert Fells, ICCFA external chief operating officer, said the association is leaning toward supporting the concepts in the bill. "We support the concepts that reflect what ICCFA has been saying for more than 10 year now, but we question the vehicle of making them part of a trade rule with stiff fines," Fells said. "We are concerned for some of the smaller cemeteries, an \$11,000 fine could put them into bankruptcy."

Fells also said ICCFA would seek amendments to the bill. "We urged Rep. Rush, back when they were drafting the bill, to see about making illegal disinterments a federal crime. That isn't addressed. In fact, none of the issues raise by the Burr-Oak Cemetery scandal are even addressed in the bill, which is another concern we have," Fells said.

The National Funeral Directors Association's Executive Board will determine what position the association will take on the Rush bill at its meeting in Boston during the association's upcoming convention.

“While it does impose some modest requirements on funeral homes, it appears that it contains provisions that NFDA has long-argued were necessary, given a dramatically changed marketplace in which consumers can purchase funeral goods and services from sellers that are lightly or even unregulated by state or federal law,” said Jessica Koth, NFDA public relations manager.

Will Burr Oak Cemetery Be a Catalyst for FTC Rule Making?

Shortly after the findings at Burr Oak Cemetery were reported, Christine Pepper, NFDA chief executive officer, sent a letter to FTC Chairman Jon Leibowitz, renewing the association’s request that the FTC “carry out its mission to protect consumers by extending the Funeral Rule over sellers of death care goods or services, including the nation’s cemeteries and crematories.”

In her letter, Pepper said: “Any time the government extends regulations over sellers in an industry or profession, it has the effect of curtailing the opportunity for abuse. If a seller is not licensed, not inspected and not regulated by federal, state or local governments, it operates in a free-for-all world where there is no accountability for any transgression... NFDA, AARP and other organizations have documented the harm that consumers have experienced... The FTC has refused to even investigate these complaints by arguing (without any support or evidence) that the practices are not pervasive throughout the industry. As a result, cemetery and crematory consumers continue to suffer from these reoccurring scandals.”

While the FTC can start up a rule making process on its own, Fells doesn’t see that happening. “If they had unlimited resources and unlimited budgets they probably would. But they have to pick their battles like everyone else, and there are more pressing consumer issues that may consume their staff and budget such as [combating] identity theft, and things like that which affect millions of consumers like violations of the funeral rule never did.”

But what if the FTC decided to update the Funeral Rule, which was enacted in 1984 and last amended in 1994, reviewed in 1999 and again in 2008? Once again it would bring the nation’s two largest funeral service associations toe-to-toe. In her letter to Leibowitz, Pepper said, “With the Funeral Rule, the FTC was applying a level of federal oversight over a profession already heavily regulated by state authorities. NFDA argued that it was illogical to apply another level of regulation on the only segment of the death care industry that was already regulated, while allowing cemeteries and crematories to avoid government accountability.”

ICCFA’s argument was always the Funeral Rule should not be expanded to cemeteries or third party sellers in the absence of evidence of widespread misconduct that the rule would address. “That is right out of the FTC’s own rules of procedure,” Fells said. “They are not permitted by their own rules to enact a trade regulation without a finding of prevalence. All of those associations who were asking for the FTC to ‘level the playing field,’ and cover cemeteries and stones, were asking FTC to violate its own rules. No one was forthcoming with reports of widespread misconduct.”

Fells added that if the FTC brings about a rule-making, ICCFA is going to say this is an opportunity to do away with protectionist laws. “Many funeral director associations have lobbied long and hard to keep these laws on the books,” he said. “They are jealously guarded. We would say, well, as long as you are going to do this, how about pre-empting all these state laws?”

But is ICCFA the same association it was 11 years ago during that rule-making process? Now that the association’s membership scales tip toward the funeral director side, would the argument be the same?

Said Fells, “I don’t think anybody joins this association unless they want to compete. If I want to break into someone else’s market or someone else wants to break into mine it is fair game, Competition is the name of the game. We say we’re for open competition, not because we’re such wonderful people or idealistic, it’s just the name of the game. Look at the third party retailers. Protectionist laws are dead and dying. We’re looking at the handwriting on the wall. If you want to survive and if you want to prosper you’ve got to compete. Anyone who is benefiting from protectionist laws in your state, I say it’s nice work if you can get it, but I wouldn’t want to bet your future business plans in the future years that these protectionist laws staying in place. If that is all you have in your business plan, that only we can sell caskets, you’re going to be in trouble someday when one way or another that comes tumbling down. We’re gearing our memberships to hopefully succeed by saying, even if you have these protectionist laws, get out there and compete today. They’re benefiting from the law, but they are wondering how long this is going to last.”

As of press time (Oct. 16), no hearings on the Rush bill have been scheduled.

Tip Sheet:

Getting an Editor's Attention for Your News Item

TRENTON, N.J. – Newspaper editors by trade can be an arrogant bunch. Not only do they sit at their desks like the gatekeeper determining what submissions are worthy to be included into the pages he or she oversees, but more often than not, the editor will cast a hypercritical eye on that submission. The truth is, that is exactly what they are supposed to be like to do their jobs.

Getting your news in the newspaper is not a complicated process. It is not like trying to slip the puck past the hockey goalie but you should know exactly what the editor of the newspaper you are contacting will be looking for and what will cause him or her to reach for the red pen (old school), the delete button (more likely) or put directly in the trash.

Before you even think of sending something out, do some research. Is what you are submitting really news? Is your story of local interest, statewide interest or national interest? (Most likely, it will be local.) Do the newspapers in your area publish items similar to the one you are contemplating? For example, not every newspaper is interested in an announcement about the hiring of a new staffer or manager. Editors are not in the business of giving free publicity to a business and may need to be convinced of the value your story has on the readers.

Editors are interested in serving their readership, so the local interest angle should be prominent. Also, know the recipient's name and title. It doesn't take long to find the name of the editor of a community section of a daily newspaper or the editor of a weekly newspaper. Get the name right and title right. Mail addressed to an editor that left the company five years ago will not be held in the name light as the current recipient seeing his or her name (spelled correctly) and title. Also, if you are promoting something for the community in your release, addressing the message to "editor" comes off as a bit cold.

To get through to the editor of a newspaper, email isn't the most effective method. Regular mail or a phone call might be the more direct.

"I prefer when people pitch story ideas to me personally over the phone or when they write to me according to our preferred guidelines [addressing mail or emails to the right person with the right title] and demonstrate that there is a community service or human interest angle to the story, as opposed to a business angle," said Vanessa Holt, an editor with Packet Publications, Princeton, N.J.-based publisher a number of community newspapers.

While press releases should be tailored to the newspaper you are targeting, there is one across-the-board constant — the news must have some public call to action. This will get an editor's attention. As a backup, follow up your mailed press release with a phone call to the recipient.

When it comes to what is in the press release, editors agree — get to the point. "Often times I get press releases, sometimes they write them like a story," said Antoinette Callas, community news editor of The Times, Trenton, N.J. "The first line should tell me everything, the date, I need to know everything."

Using official company stationery is a good place to begin. The voice of the release should also be in the third person, with the obvious exception of quotes. The body should follow these basic guidelines:

- Have an attention-getting headline. Use action words. Don't say "XYZ Funeral Home Announces Memory Book Signing." Instead say "XYZ Funeral Home to Hold Memory Book Signing." Make the headline stand out from the rest of the copy usually in bold and maybe a point or two larger than the body of the release. (No need to use a variety of fonts, you are not looking to win any design awards.) Also, stay away from all capital letters.
- Emphasize the local community. Use a dateline to start the first paragraph.
- The point. You have all heard about the 5 Ws and an H (who, what, when, where, why and how), use them as a guide to write the attention-getting opener. The key here is to emphasize why what you are writing about is newsworthy. Do not overwrite your copy either. Just because you use an exclamation mark doesn't mean the reader will be as excited as you are.
- Have someone other than the author proofread it for grammar, clarity and sense. You know what you are trying to say, but will anyone else?
- End of the release with a symbol, such as ###, to let the editor know that he or she has the complete text.

Putting superfluous information in the press release might muddy your message. Unless the press release is about the history of your company, (maybe it is about to reach a landmark anniversary) don't include the history in the release. Keep your company boilerplate short.

Common Mistakes

As mentioned earlier, one of the most common mistakes businesses have in sending out press releases is not knowing the recipient's name. The second is not giving the publication enough advance notice. For a daily paper, try to give at least two weeks' notice before your event. For a weekly paper, you might want more time.

Be sure to include contact information. If your story strikes a chord with an editor, or even if there is some confusion, make sure the editor has a way to contact you immediately. Don't just give an email address, often times the editor is on deadline when a question comes up. Put a direct phone number on your release.

When sending photos that accompany a release, don't forget to include a caption. And speaking of photos, don't send a newspaper a Polaroid photo or a copy of a photo on regular printer paper.

While these mistakes sound basic, they happen a lot. "Sometimes they don't give you the time of the event," Callas said. "Little things like that. People tend to leave a phone number out. Emails back and forth aren't really convenient."

Thinking of sending out a press release? As a service to our subscribers the Memorial Business Journal staff will confidentially review and critique your press release. To take advantage of this service call customer service at 609-815-8145.

MBJ

The Notebook

The National Funeral Directors Association is reporting that an inspector from the American Society of Composers, Authors and Publishers (ASCAP) recently dropped by a funeral home in South Dakota to check and see if copyrighted music was being performed at a service without the proper license. Funeral homes must have a license to play copyrighted music during service or face fines up to \$30,000.

Living Free Animal Sanctuary, Mountain Center, Calif., has announced plans for a pet memorial park in the San Jacinto Mountains for pet owners to celebrate the life of their deceased pets. For a donation of \$25, people can scatter the cremated remains of their pet in the 2-acre park.

Garefino Funeral Home, Lambertville, N.J., (www.garefino.com) has introduced an audio obituary, also known as podcasts. Charles Garefino, owner of the Garefino Funeral Home Inc. launched the service earlier this year, which is an audio recording that can be listened to on a computer or downloaded to a personal listening device such as in iPod. Garefino enlisted a high school classmate of his who works as a broadcaster and who's family had used his services. "I asked him if he could simply record an obituary for me and give me the recording on a compact disc. What I got back was a dignified presentation that surpassed all my expectations."

Honors students at Cuyahoga Community College have taken on a research project at Cleveland's second-oldest cemetery. The students will be researching some of the 17,000 graves at the **Erie Street Cemetery**, which was recently declared an official Ohio historical site.

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Memorial Business Journal

2009 –

One could argue whether the electric light bulb was the most significant invention in history. But consider this: Since its appearance on the market, the light bulb has been used as the icon that is synonymous with a bright idea. In the movies, whenever someone gets a good idea, a light bulb magically appears over the thinker's head, illustrating that a brainstorm had produced results.

On the other hand, the phrase "greatest thing since sliced bread" has become a verbal icon, denoting that something of importance is being discussed. The first pre-sliced loaf of bread appeared in 1928, some 50 years after the development of the commercial light bulb, which makes sliced bread the more recent innovation even though the light bulb is without question more historically significant. Fortunately, Hollywood never adopted the notion of putting a slice of bread over the head of someone who comes up with a good idea, instead directors have stuck with the light bulb as its symbol.

Another distinction between the light bulb and sliced bread is that the light bulb was a good idea that kept getting better. Today's bulbs look different and are far superior and more energy efficient than those of over 100 years ago. Whereas with the sliced bread, I don't see where this innovation really had a lot of room for improvement. The best ideas continue to improve over time such as the home computer, cars, TVs and so on. Even the George Foreman Lean, Mean Fat-Reducing Grilling Machine has improved dramatically since The Champ's first version of the grill back in 1994. (What a pain it was back then to clean them, not so today.)

As I said, the best ideas keep getting better, and that is the plan behind the Memorial Business Journal. When I started covering funeral service in the mid-1990s, "the death care industry" was still a Wall Street darling with consolidation riding high. Dot-coms were still dot-coming and the profession itself was thought of as recession-proof.

But things continue change and evolve and the key is keeping pace with the changes and the evolution. Looking back, some of death care's recent defining moments have been predicted, such as the rise in cremation and the burst of the consolidation bubble. While others still could not have been predicted and still defy explanation, such as the events that unfolded at the Tri-State Crematory.

The mission of this journal is help each of its subscribers fulfill their mission by providing independent, comprehensive news and analysis to all providers and suppliers of funeral-related goods and services. Death care these days is more segmented than ever. But like dominos, each piece affects the next. And these are the connections that will be worth mentioning every week — the story, the story behind the story and the story within the story and how all of them affect your business and what can be done to keep moving forward. The intent is that sharing stories will help inspire good ideas and/or to improve existing ideas.

Although not as revolutionary as the light bulb, this premier edition of the Memorial Business Journal represents what I'd like to consider a good idea, one that will continue to improve and evolve as a resource to this profession.

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Memorial Business Journal is a weekly, independent publication, which was founded in 2009 by Edward J. Defort, a national and international award winning journalist, who has covered the death care profession since 1996.

The mission of this publication is to provide independent, comprehensive news and analysis to all providers and suppliers of funeral-related goods and services.

Subscriptions are \$199 for one year (52 issues); or \$349 for two years (104 issues).

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