The filer certifies that this filing complies with the provisions of the Public Access Policy of Case# 2020-02092-0 - JUDGE:33 Received at County of Bucks Prothonotary on 04/17/2020 9:10 AM, Fee = \$258.50.

IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA CIVIL TRIAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

Office of Attorney General

CIVIL ACTION - EQUITY

15th Floor, Strawberry Square Harrisburg, Pennsylvania 17120

Docket No.

Petitioner

v.

STONEMOR PARTNERS L.P.

3600 Horizon Blvd., Suite 100 Trevose, Pennsylvania 19053

Respondent

...

ASSURANCE OF VOLUNTARY COMPLIANCE

AND NOW, comes the Commonwealth of Pennsylvania, Office of Attorney General, by Attorney General Josh Shapiro, through the Bureau of Consumer Protection (herein referred to as "Commonwealth" and/or "Petitioner"), which has caused an investigation to be made into the business practices of StoneMor Partners L.P. (herein referred to as "StoneMor" and/or "Respondent"), pursuant to the provisions of the Pennsylvania *Unfair Trade Practices and Consumer Protection Law*, 73 P.S. § 201-1, *et seq*. (herein referred to as "Consumer Protection Law"); and states the following:

WHEREAS, Petitioner is the Commonwealth of Pennsylvania by the Office of the Attorney General, through the Bureau of Consumer Protection, with offices located at 15th Floor, Strawberry Square, Harrisburg, Pennsylvania 17120.

WHEREAS, Respondent, StoneMor Partners L.P., is a Delaware limited partnership headquartered at 3600 Horizon Blvd., Suite 100, Trevose, Pennsylvania 19053;

BACKGROUND

WHEREAS, certain subsidiaries of Respondent have engaged in trade or commerce within the Commonwealth of Pennsylvania through the advertising, offering for sale, and sale of "preneed" and/or at-need burial vaults, caskets, interment rights, and funeral and burial arraignment services.

WHEREAS, certain subsidiaries of Respondent own and/or operate over 50 cemeteries in Pennsylvania, including the operation of twelve Catholic cemeteries.

WHEREAS, Respondent StoneMor's subsidiaries own and/or operate over 300 cemeteries and 90 funeral homes in over 25 states.

WHEREAS, based upon its investigation, the Commonwealth believes Respondent has engaged in conduct which violates the Consumer Protection Law, as more fully set forth below which Respondent denies:

- 1. Certain of Respondent's subsidiaries sell products and services both at time of death referred to as "at-need" as well as before the time of death commonly referred to as "preneed."
- 2. In a "preneed" sale, the consumer pays money up front or finances payments for cemetery merchandise and/or services to be provided at an unknown future date upon death of the contract beneficiary
- 3. Many consumers purchase "preneed" cemetery goods and/or services where consumers are charged and pay for items including vaults. An exemplary sales agreement is attached hereto in unredacted form as Exhibit "A".
- 4. Respondent asserts that these items also include an internment fee to open the grave, install the vault, install the casket in the vault and close the grave at the time of burial, or

when the vault is to be installed before death, the interment fee is divided into two parts, an initial opening fee to install the vault and a final closing fee to remove the approximate eighteen inches of soil covering the vault, install the casket and close the grave at the time of burial. A concrete vault is required to provide support for the grave.

- Certain of Respondent's subsidiaries sell to consumers concrete burial vaults,
 both at-need and preneed services.
- 6. Section 480.2 of the Cemetery and Funeral Merchandise Trust Fund Law, 63 P.S. §§ 480.1, et seq. (herein referred to as "CFMTFL"), states that a seller of preneed cemetery and funeral goods and services must deposit seventy (70) percent of the retail sales price of such good and services into a merchandise trust fund and Section 480.4 of the CFMTFL states that the moneys must remain within the trust fund until the goods have been delivered, the services have been performed, or the beneficiary of the agreement has died. 63 P.S. §§ 480.2(a), 480.4(a).
- 7. Respondent's subsidiaries which sell preneed merchandise and services in Pennsylvania deposit the statutorily required portion of the sale proceeds into a merchandise trust fund. Respondent's subsidiaries withdraw the moneys allocated to vaults from its merchandise trust fund prior to the deaths of the beneficiaries, if the vaults had been actually delivered and installed in burial sites.
- 8. In some instances, certain of Respondent's subsidiaries actually delivered burial vaults to consumers by installing a vault in the consumer's burial space prior to the beneficiary's death.
 - 9. Respondent asserts these vaults were shrink-wrapped prior to installation.
 - 10. These vaults were later sealed at time of burial.

- 11. Prior to burial, Respondent asserts its subsidiaries agreed to repair or replace any damaged vaults as set forth in the contract.
- 12. In other instances, Respondent delivered the vaults by storing a consumer's vault until the time of the beneficiary's death, both those instances in paragraphs 7-8 are hereafter termed "constructive delivery."
- 13. The Commonwealth contends that sales personnel failed to meaningfully inform consumers prior to the signing of the retail installment sales contract of Respondent's subsidiaries practice of constructive delivery.
- 14. Respondent notes that the contract informs the purchaser of constructive delivery in a number of places.
- 15. The Commonwealth further contends that Respondent's retail installment sales contracts did not include sufficiently clear and conspicuous language informing consumers of Respondent's practice of "constructive delivery."
- 16. Respondent notes that the contract provisions inform the purchaser of constructive delivery in language no less clear and conspicuous than other contract language.
- 17. In one instance, a Bucks County consumer complained that her family was not fully informed that her father's burial vault was to be delivered and installed pre-need and indicated concerns that the vault would not remain waterproof in the event it would need to be opened and then reclosed after its initial installation.
- 18. Respondent notes that no representation about water-proofing was made and that no damage was sustained resulting from the family's speculation about water proofing.
- 19. The Commonwealth contends that Respondent fails to meaningfully inform consumers of Respondent's practice of actual pre-need delivery through "constructive"

delivery" and therefore, Respondent is in violation of Sections 201-2(4)(vi), (vii), (ix), and (xxi) of the Consumer Protection Law. 73 P.S. §§ 201-2(4)(vi), (vii), (ix), and (xxi).

WHEREAS, Respondent disputes that the practices, of its subsidiaries including pre-need actual delivery and/or installation of vaults, or any "constructive delivery" constitutes a violation of the Consumer Protection Law, or has damaged consumers. In fact, Respondent contends that: Pennsylvania law does not prohibit that practice; consumers sustain no damage from the practice; the Consumer Protection Law does not apply to the practice of inventorying vaults so they are available at the time of need; and the preneed installation of vaults is beneficial to consumers.

WHEREAS, Respondent denies that consumers did not have prior knowledge of constructive delivery and also contends that its contracts disclose that vaults may be delivered/installed at any time.

WHEREAS, the parties wish to avoid the cost and expense of litigation.

WHEREAS, pursuant to Section 201-5 of the Consumer Protection Law, this Assurance of Voluntary Compliance (herein referred to as "AVC") shall not be considered an admission by Respondent of a violation of the Consumer Protection Law for any purpose. 73 P.S. § 201-5.

WHEREAS, this AVC is accepted by the Commonwealth pursuant to Section 201-5 of the Consumer Protection Law in lieu of commencing statutory proceedings under Section 201-4 of the Consumer Protection Law. 73 P.S. §§ 201-4, 201-5.

SETTLEMENT TERMS

NOW THEREFORE, its subsidiaries having conducted trade or commerce within the Commonwealth of Pennsylvania, Respondent agrees for itself, its successors, assigns, officers, partners, agents, representatives, employees, and all other persons acting on its behalf, jointly or individually, directly or indirectly, or through any corporate or business device, as follows:

I. The above recitals are incorporated herein as though fully set forth.

II. Injunctive and Affirmative Relief

- A. Respondent shall fully comply with any and all provisions of the Consumer Protection Law and any amendments thereto.
- B. If Respondent desires to practice any type of constructive preneed delivery of vaults by preneed installation, Respondent shall make clear and conspicuous disclosure of its practice of such delivery to consumers by verbal or written representation prior to the consumer's signing of the contract and by including clear and conspicuous language in its contract. Respondent shall have thirty days from the date of this AVC to implement such disclosure.

III. Monetary Relief

- A. Respondent shall be liable for and shall pay to the Commonwealth a total payment in the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00) (herein referred to as "Required Payment"), which shall be allocated as follows:
- 1. Costs of investigation in the amount of Twenty Five Thousand and 00/100 Dollars (\$25,000.00), which shall be distributed to the Commonwealth of Pennsylvania, Office of Attorney General, to reimburse the costs incurred in pursuing this enforcement action, and shall be deposited into an interest-bearing account from which both principal and interest shall be expended for public protection and education purposes; and
- 2. Restitution in the amount of Twenty Five Thousand and 00/100 Dollars (\$25,000.00) ("Restitution"). The following applies to this Restitution:
 - a. Restitution pursuant to Section 201-4.1 of the Consumer Protection
 Law shall be for individuals who (i) have submitted before the

Effective Date of this AVC or submit claims or complaints to the Commonwealth within sixty (60) days after the Effective Date of this AVC; (ii) such claim or complaint concerns or relates to conduct alleged in the AVC regarding "constructive delivery" by preneed installation of vaults; (iii) such person or entity provides documentation supporting such claim, including substantiation of any actual damages sustained; (iv) such complaint or claim is determined by the Commonwealth in the sole discretion of the Commonwealth to be eligible for Restitution based upon the Commonwealth's review of the complaint or claim and any documentation provided to the Commonwealth; and (v) that the conduct of the Respondent related to such complaints or claims that occurred before the Effective Date of this AVC. ("Eligible Complaint")

- b. The determination of whether a consumer shall receive Restitution hereunder and the determination of such Restitution shall be within the sole discretion of the Commonwealth;
- Any complaint or claim that is postmarked by the sixtieth (60th)
 day after the Effective Date of this AVC shall be deemed timely.
- d. The manner, and timing of any distribution of the Restitution to consumers shall be at the sole discretion of the Commonwealth.
- e. In the event the Commonwealth receives an Eligible Complaint

whereby a consumer is seeking the removal of a burial vault from the complaining consumer's gravesite, the Respondent shall cooperate with this request and provide documentation to the Commonwealth that such has occurred, along with its customary and reasonable charge to be drawn from the Restitution amount held by the Commonwealth.

B. Payment Terms:

- 1. Payment shall be made by certified check, cashier's check, or money order, made payable to the Commonwealth of Pennsylvania, and forwarded to Office of Attorney General, Bureau of Consumer Protection, John M. Abel, 15th Floor, Strawberry Square, Harrisburg, Pennsylvania, 17120.
- 2. Respondent shall pay, upon execution of and before the filing of this Assurance of Voluntary Compliance, the sum of Twenty Five Thousand and 00/100 Dollars (\$25,000,00) to be designated as Restitution as set forth above.
- The Respondent shall make a subsequent payment of Twenty Five
 Thousand and 00/100 Dollars (\$25,000.00) to be used for Costs of investigation as set forth
 above on or before June 30, 2020.
- 4. A failure to make this payment shall be deemed a violation of this

 Assurance of Voluntary Compliance and subject Respondent to all the sanctions and penalties

 provided by law. Any monies not allocated for Restitution under this paragraph shall be

 designated for any other lawful purpose as determined by the Commonwealth.

IV. Miscellaneous Terms

- A. The Bucks County Court of Common Pleas shall maintain jurisdiction over the subject matter of this AVC and over Respondent for the purpose of enforcing its terms.
- B. Nothing in this AVC shall be construed to waive or limit any right of action by a consumer or a local, state, federal, or other governmental entity.
- C. Time shall be of the essence with regards to Respondent's obligations hereunder.
- D. Respondent further agrees to execute and deliver all authorizations, documents and instruments which are necessary to carry out the terms and conditions of this AVC, whether required prior to, contemporaneous with or subsequent to the Effective Date, as defined herein.
- E. Respondent understands and agrees that if Respondent has made any false statement in or related to this AVC, that such statement is made pursuant to and under penalty of 18 Pa. C.S. § 4904 relating to unsworn falsifications to authorities.
- F. This AVC may be executed in any number of counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart hereof and all of which together shall constitute one and the same document. One or more counterparts of this AVC may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof.
- G. This AVC sets forth all of the promises, covenants, agreements, conditions and understandings between the parties, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied. There are

no representations, arraignments, or understandings, oral or written, between the parties relating to the subject matter of this AVC that are not fully expressed herein or attached hereto. Each party specifically warrants that this AVC is executed without reliance upon any statement or representation by any other party hereto, except as expressly stated herein.

- H. Respondent agrees by the signing of this AVC that Respondent shall abide by each of the aforementioned provisions and that the breach of any one of these terms shall be sufficient warrant for the Commonwealth of Pennsylvania to seek penalties provided for under Section 201-S(a) of the Consumer Protection Law, 73 P.S. § 201-8(a); and to seek any other equitable relief which the Court deems necessary or proper, up to and including forfeiture of the right to engage in trade or commerce within the Commonwealth of Pennsylvania.
- I. Any failure of the Commonwealth to exercise any of its rights under this AVC shall not constitute a waiver of its rights hereunder.
 - J. The "Effective Date" of this AVC shall be the day it is filed with the Court.
- K. If any clause, provision or section of this AVC shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this AVC and this AVC shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not be contained herein.
- L. The Respondent certifies and warrants that the undersigned is authorized by the Respondent to enter into this Assurance on its behalf and his/her signature binds the Respondent

to all terms.

WHEREFORE, intending to be legally bound, the parties have hereto set their hands and seals.

For the Petitioner:

COMMONWEALTH OF PENNSYLVANIA OFFICE OF ATTORNEY GENERAL

JOSH SHAPIRO

Attorney General

Date: 4-17-20

By:

Senior Deputy Attorney General

PA Attorney I.D. No. 47313

Email: jabel@attorneygeneral.gov Bureau of Consumer Protection 15th Floor, Strawberry Square

Harrisburg, Pennsylvania 17120 Telephone: (717) 783-1439

Facsimile: (717) 705-3795

For the Respondent:

STONEMOR PARTNERS, L.P.

Date: 3/9/2020

Docusigned by:

Marc Bing-Earemba

V:

Marc Bing-Zaremba,
On behalf of StoneMor Partners L.P.
3600 Horizon Blvd., Suite 100
Trevose, Pennsylvania 19053

Date: 3 11 2020

By: Attorney for Respondent

EXHIBIT A

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ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFINITE WHICH THE DIDETOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OPTAINED PURSUANT HERBYO OR WITH THE PROCEEDS. HERBOW, RECOVERY HERBYOLER BY THE DEBTOR SHALL NOT EXCEED THE AMOUNT PAID BY THE DEBTOR HERBYOLER. HERLEST, RECOVERY HEREDYDER BY THE DESTOR SHALL NOT EXCEED THE AMOUNT PAID BY THE DESTOR HEREDYDER,

NOTICE TO THE PURCHASER

(1) Do not sign this Agreement before you read to or it is confident any blank spaces.

(2) You are entitled to a completely filled in copy of this Agreement at the time you sign it.

(3) Under this law, you have the right to pay off is advance the full import due and under conditions to obtain a partial rethind of the fundance than go the property if repossessed.

(3) Under this law, you have the right to pay off is advance the full import due and under conditions, a result of the property if repossessed.

PURCHASING STRICHT TO CANCEL.

If this Agreement was solicited at your residence and you do not want the goods or sorriers, you, the Parchases, than content and the property in the due of the line hundress day after the date of this Agreement. (For an explanation of this right, see the attricted Nutice of Concellation forms.) Concellation form.) Recovery Fund, A Real Battle Recovery Fund exists to minibure nersons who have suffered interesting loss and have obtained an uncollectible judgement due to fraud, misreprescription or devolt in a real estate transmitten by a Pomayivania licensee. For complete details call (717) 783-265% of 1-800. SÉLREVERSUSUDE FOR ADDITIONAL TERMS AND CONDITIONS IN WITNESS WHEREOF, FURCHASER has executed this Agreement this IN WITNESS WHEREOF, FURCHASER has executed this Agreement this ______ day of ______, 20_____, By executing this Agreement, Purchaser acknowledges become of a copy of this Agreement. The Purchaser of Burish Rights in this Agreement declares that he or she is a njember of the Roman Catholic Church, 1. Purchaser Comprelor Bayeil Date of Birth Bollet: 2. Purobaser. Date Hy: Authorited Representative: **Broast** This Agreement is not valid until recorded and approved by an Authorized Representative of the Cemetery. 18 Burial Rights Coulificate to be in Hamele) after than Percharer(s), then provide Hamele) higher Homo Phone Number

1. Employer:

2. Émpfoyer:

PINK GOPY-Purchaser's Copy GOLD COPY - Page

YELLOW COPY - Records Corporate

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IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA CIVIL TRIAL DIVISION

COMMONWEAL	TH OF	PENNSYI	VANIA
		_	•

Office of Attorney General

15th Floor, Strawberry Square

Harrisburg, Pennsylvania 17120

CIVIL ACTION - EQUITY

Docket No.

Petitioner

V.

STONEMOR PARTNERS L.P.

3600 Horizon Blvd., Suite 100 Trevose, Pennsylvania 19053

Respondent

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and document.

Date: _____

By:

ohn M/Abel

Senior Deputy Attorney General PA Attorney I.D. No. 47313

Bureau of Consumer Protection

15th Floor, Strawberry Square

Harrisburg, PA 17120

Telephone: (717) 783-1439

Facsimile: (717) 705-3795

Email: jabel@attorneygeneral.gov

IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA CIVIL TRIAL DIVISION

COMMONWEALTH	OF PENNSYLVANIA

Office of Attorney General

15th Floor, Strawberry Square :

Harrisburg, Pennsylvania 17120

CIVIL ACTION - EQUITY

Docket No.

Petitioner

V.

STONEMOR PARTNERS L.P.

3600 Horizon Blvd., Suite 100 Trevose, Pennsylvania 19053

Respondent

CERTIFICATE OF SERVICE

I, John M. Abel, counsel for the Commonwealth, hereby certify that on 2020, I caused true and correct copy of the foregoing document to be mailed first class postage prepaid and via electronic mail to the following:

Dan Walworth, Esquire Duane Morris LLP 30 South 17th Street Philadelphia, PA 19103-4196 (Counsel for Defendant)

Date: 4-17-20

By:

John M Abel

Senior Deputy Attorney General PA Attorney I.D. No. 47313 Bureau of Consumer Protection 15th Floor, Strawberry Square Harrisburg, PA 17120

Telephone: (717) 783-1439 Facsimile: (717) 705-3795

Email: jabel@attorneygeneral.gov

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1722	· · · J

For Prothonotary Use Only:	T_{D}
Docket No:	$^{\prime\prime}MES_{T_{AMp}}$

The information collected on this for supplement or replace the filing and				
Commencement of Action: Complaint Writ of Summ Transfer from Another Jurisdiction	mons	Petition Declaration of Taking	1 3	J
Lead Plaintiff's Name: Commonwealth of PA, PA Office of At	torney General	Lead Defendant's Name Stonemor Partner		
Are money damages requested?	ĭ Yes □ No	Dollar Amount Re (check one)	•	■ within arbitration limits ■ outside arbitration limits
Is this a Class Action Suit?	□Yes ☑ No	Is this an <i>MD</i> .	J Appeal?	□ Yes 🗵 No
Name of Plaintiff/Appellant's Attorned Check here if you	ey: <u>John M. Abel, Sel</u> ou have no attorney (Litigant)
PRIMARY CA	to the left of the ONE 4SE. If you are makinost important.			-
TORT (do not include Mass Tort) Intentional Malicious Prosecution Motor Vehicle Nuisance Premises Liability Product Liability (does not include mass tort) Slander/Libel/ Defamation Other: MASS TORT Asbestos Tobacco Toxic Tort - DES	CONTRACT (do n Buyer Plaintiff Debt Collection Debt Collection Employment D Discrimination Employment D Other:	n: Credit Card n: Other Dispute:	Board Board Dept. Statute	ative Agencies I of Assessment I of Elections of Transportation ory Appeal: Other
Toxic Tort - Implant Toxic Waste Other: PROFESSIONAL LIABLITY Dental Legal Medical Other Professional:	☐ Ground Rent☐ Landlord/Tena☐ Mortgage Fore	ain/Condemnation	Comm Declar Manda Non-D Restra Quo V Replev Other: Assur	Domestic Relations aining Order Varranto vin

NOTICE

Pennsylvania Rule of Civil Procedure 205.5. (Cover Sheet) provides, in part:

Rule 205.5. Cover Sheet

- (a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:
 - (i) actions pursuant to the Protection from Abuse Act, Rules 1901 et seq.
 - (ii) actions for support, Rules 1910.1 et seq.
 - (iii) actions for custody, partial custody and visitation of minor children, Rules1915.1 et seq.
 - (iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.
 - (v) actions in domestic relations generally, including paternity actions, Rules1930.1 et seq.
 - (vi) voluntary mediation in custody actions, Rules 1940.1 et seq.
- (2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.
- (b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.
 - (c) The prothonotary shall assist a party appearing pro se in the completion of the form.
- (d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.
- (e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the website of the Administrative Office of Pennsylvania Courts at www.pacourts.us.