

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA,

Plaintiff,

v.

**AUSTIN ROYSTER FUNERAL HOME,
INC., et al.,**

Defendants.

Civil Action No. 2017 CA 007760B

CONSENT ORDER

Plaintiff District of Columbia, by and through its Office of Attorney General's Office of Consumer Protection (the "District"), filed its Complaint for Injunctive and Other Relief in this matter, under the District of Columbia Consumer Protection Procedures Act, D.C. Code § 28-3901, *et seq.* ("CPPA"). The District and Defendants Austin Royster Funeral Home, Inc. ("Austin Royster"), and Jamelle Royster ("Royster") (collectively "Defendants") stipulate to the entry of this Consent Order ("Consent Order") pursuant to SCR-Civil 54 to resolve all matters in dispute in this action between them. This Consent Order resolves the District's claims in this matter as to the above identified Defendants, but does not apply to the other Defendant in this action - Defendant James Agee.

THE PARTIES

1. Plaintiff, the District, a municipal corporation that is authorized to sue and be sued, is the local government for the territory constituting the seat of the government for the United States of America. The District brings this action, through its Attorney General's Office

of Consumer Protection, pursuant to D.C. Code § 28-3909. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1). The CPPA also authorizes the Attorney General to bring court actions to enforce the District's consumer protection laws, including the CPPA.

2. Defendant Austin Royster operated as a funeral home from the mid 1990's until it closed in December 2017. At the time that it closed, it was located at 502 Kennedy Street, NW, Washington, DC. Austin Royster provided funeral services for consumers, sold funeral goods, and entered into contracts with consumers to arrange funerals in advance of the need for a funeral.

3. Defendant Royster acted as Defendant Austin Royster's Chief Operating Officer from 2011 until the funeral home closed.

ALLEGATIONS

4. This Court has jurisdiction over this matter pursuant to D.C. Code sections 11-921, and 28-3909.

5. The District's Complaint alleges that Defendants engaged in unlawful trade practices under the District's CPPA, including as set forth in D.C. Code § 28-3904(b), (e), (f) and (r), in that Defendants (1) made untrue or misleading representations regarding Defendants' ability to provide funeral services; (2) made untrue or misleading representations regarding Royster's status as a funeral director; (3) made untrue or misleading representations that Defendants would perform purchased funeral services; (4) failed to inform consumers that Austin Royster was operating without the required licenses; (5) failed to inform consumers that Austin Royster was "barred from accepting any assignment of insurance proceeds, or holding

any amount of funds, on behalf of a consumer, which exceeds the total price of the funeral services specified in any contract between [Austin Royster] and the consumer," and (6) engaged in unconscionable practices by accepting an assignment of insurance proceeds, or holding any amount of funds, on behalf of a consumer, which exceeded the total price of the funeral services specified in any contract between Austin Royster and the consumer.

APPLICATION

6. The provisions of this Consent Order shall apply to Defendant Austin Royster and all persons or entities that it controls or has the ability to control, including without limitation its principals, officers, directors, employees, agents, successors, assignees, affiliates, merged or acquired entities, or wholly owned subsidiaries.

7. The provisions of this Consent Order shall apply to Defendant Royster and her agents, employees and assigns, and any partnership, corporation or entity in which she either currently, or in the future, has an ownership interest, has authority to control, or has the authority to establish policy.

8. The provisions of this Consent Order shall not apply to Defendant James Agee.

INJUNCTION

Funeral Goods and Services

9. Defendants shall, whether acting directly or indirectly, or through a corporation or other entity, permanently cease:

- a. entering into any contract or agreement for funeral services in the District of Columbia;
- b. advertising, marketing or soliciting for the provision of funeral services in the District of Columbia; or

- c. accepting any funds, or assignment of funds, from consumers for the provision of future funeral services in the District of Columbia.

General Prohibitions

10. Defendants shall not engage in any act or practice in violation of the CPPA in connection with the offer or sale of any consumer good or service.
11. Defendants shall not make any representations that its goods or services have a certification or characteristic that they do not have.
12. Defendants shall not make any misrepresentations concerning a material fact that have the tendency to mislead consumers.
13. Defendants shall not fail to state any material fact, the omission of which tends to mislead consumers.

PAYMENT TO THE DISTRICT

14. Defendants shall pay the District the total sum of \$300,000 on or before February 26, 2019 ("Payment to the District"). The Payment to the District shall be made via check made out to the D.C. Treasurer and delivered to the Office of Consumer Protection consistent with instructions from the Office of Consumer Protection.
15. The District shall deposit \$280,000 of the Payment to the District into the Attorney General Restitution Fund to be distributed as restitution to consumers who have filed complaints with the District on or before the date of this Consent Order and have suffered documented financial harm from doing business with Defendants. The District may at its discretion consider complaints received after the date of this Consent Order and before February 26, 2019. The District may utilize any part of the \$280,000 not paid out as restitution for either (1) the costs and expenses related to maintaining the Attorney General Restitution Fund or

(2) transfer those excess amounts to the District's Litigation Support Fund authorized at D.C. Code 1-301.86b. \$20,000 of the Payment to the District shall be a penalty payment to the District as authorized by D.C. Code § 28-3909.

16. Upon any default of the Payment to the District, a monetary judgment is entered, pursuant to the terms of this Consent Order against Austin Royster and Royster, in the amount of \$300,000 (the "judgment amount"), for which Austin Royster and Royster are jointly and severally liable.

17. Additionally, upon the occurrence of any default in the payment required under paragraphs 14-15 above, Defendants hereby irrevocably authorize and empower any attorney-at-law or Clerk of the Superior Court of the District of Columbia, to appear at any time for Defendants in any action brought against it to enforce this Consent Order at the suit of the District of Columbia, with or without declaration filed, as of any term, to waive the issuing of service of process, and therein to confess or enter judgment against Defendants for the entire remaining unpaid sum of the amount due under paragraph 14-15, together with all costs and expenses of enforcing this Consent Order, including reasonable attorney's fees. For purposes of this paragraph, a default shall include Defendants' failure to make all or a portion of the payment required by this Consent Order within ten (10) days of the date it is due, or if either of the Defendants make an assignment for the benefit of their creditors, file or have filed against them any proceedings under any reorganization, bankruptcy act or similar law, is adjudicated bankrupt, or becomes insolvent.

GENERAL PROVISIONS

18. The District and Defendants (collectively, the "Parties") may apply to the Court to modify this Consent Order by agreement at any time. Any party may apply to the Court, without

the other party's agreement, to modify this Consent Order for good cause shown based on a substantial change in law or fact occurring after the date this Consent Order is entered.

19. Unless otherwise set forth above, Defendants shall implement all changes required by this Consent Order within ten (10) days of its entry by the Court.

20. The District shall provide a ten (10) day notice letter by email and first class mail to Defendants upon a good faith belief that Defendants have violated the injunctive terms of this Consent Order. Defendants shall have ten (10) days from the receipt of the notice to explain and correct any violation before the District shall take any legal action to enforce the terms of this Consent Order.

21. Defendants shall not cause or encourage third parties, or knowingly permit third parties acting on its behalf, to engage in practices from which Defendants are prohibited by this Consent Order.

22. This Consent Order represents the full and complete terms of the settlement entered by the Parties. In any action undertaken by the Parties, neither prior versions of this Consent Order nor prior versions of any of its terms that were not entered by the Court in this Consent Order may be introduced for any purpose whatsoever.

23. In entering into this Consent Order, the Parties are neither extinguishing any rights otherwise available to consumers, nor creating any right not otherwise available under the laws of the District of Columbia.

24. This Court retains jurisdiction of this Consent Order and the Parties for the purpose of enforcing this Consent Order and for the purpose of granting such additional relief as may be necessary and appropriate. The Parties may agree in writing, through their counsel, to an extension of any time period in this Consent Order without a court order.

25. This Consent Order may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature.

26. All notices sent pursuant to this Consent Order shall be provided to the following address via first class and electronic mail, unless a different address is specified in writing by the party changing such address:

Wendy J. Weinberg, Esq.
Senior Assistant Attorney General
Office of the Attorney General
441 Fourth Street, N.W., Suite 630 South
Washington, D.C. 20001
Wendy.weinberg@dc.gov

For the Plaintiff District of Columbia

Frederick D. Cooke, Jr., Esq.
Rubin, Winston, Diercks, Harris & Cooke, L.L.P.
1201 Connecticut Avenue, NW, Suite 200
Washington, D.C. 20036

For the Defendants Austin Royster Funeral Home, Inc., and Jamelle Royster

27. Any failure by any party to this Consent Order to insist upon the strict performance by any other party of any of the provisions of this Consent Order shall not be deemed a waiver of any of the provisions of this Consent Order, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Consent Order.

28. If any clause, provision or section of this Consent Order 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 Consent Order and this Consent Order shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other

provision had not been contained herein.

29. Nothing in this Consent Order shall be construed as relieving Defendants of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Consent Order be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

30. Defendants shall deliver a copy of this Consent Order to each of its current and future principals, officers, directors, and managers having decision-making authority with respect to the subject matter of this Consent Order.

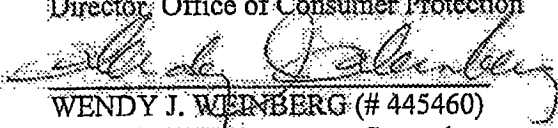
31. Defendants shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited in this Consent Order or for any other purpose that would otherwise circumvent any part of this Consent Order or the spirit or purposes of this Consent Order.

32. This Consent Order finally disposes of all claims by the Parties and the District shall release Defendants from all claims that the Attorney General asserted or could have asserted under the D.C. Consumer Protection Procedures Act, D.C. Code §§ 28-3901 *et seq.*, based on the facts alleged in the Complaint.

KARL A. RACINE
Attorney General for the District of Columbia

ROBYN R. BENDER
Deputy Attorney General
Public Advocacy Division

BENJAMIN WISEMAN
Director, Office of Consumer Protection

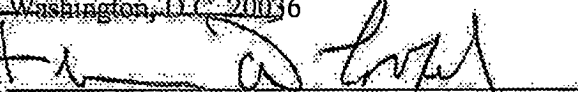

WENDY J. WEINBERG (# 445460)
Senior Assistant Attorney General
Office of Consumer Protection

Date: 12/14/18

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For Plaintiff District of Columbia

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Washington, D.C. 20036



Frederick D. Cooke, Jr.

Date: 14 December 2018

**For Defendants Austin Royster
Funeral Home, Inc. and Jamelle Royster**

IT IS SO ORDERED, ADJUDGED, AND DECREED.

JAW 9, 2019
Date

Michael Rankin
Judge Michael Rankin