

THE CITY OF NEW YORK
OFFICE OF ADMINISTRATIVE TRIALS & HEARINGS, TRIALS DIVISION

**NYC DEPARTMENT OF CONSUMER AND
WORKER PROTECTION,**

Petitioner,

-against-

R.G. ORTIZ FUNERAL HOME INC.,

Respondent.

PETITION

OATH Index No. 242959

The New York City Department of Consumer and Worker Protection (“DCWP” or the “Department”) brings this action against Respondent, R.G. Ortiz Funeral Home Inc. (“R.G. Ortiz” or “Respondent”), and alleges as follows:

INTRODUCTION

1. R.G. Ortiz is a “provider of funeral services”¹ with eight different physical business locations in New York City.
2. R.G. Ortiz targets Spanish-speaking communities throughout New York City, regularly using deceptive and opaque business practices intended to keep pricing information and options obscured, in an effort to charge these consumers seemingly-random amounts for its services, often resulting in price swings of thousands of dollars for the same service.

¹ New York City Administrative Code § 20-730(m) defines “provider of funeral services” as “any person, partnership or corporation, or any employee or agent thereof, engaged in the business of selling or offering for sale, directly to the public, funeral services or funeral merchandise; of preparing deceased human bodies for burial, cremation or other final disposition; or of conducting or arranging funerals.”

3. Over the past five years, at least 48 consumers seeking funeral services and related products were so aggrieved by R.G. Ortiz's deceptive business practices that they submitted complaints to DCWP, the Better Business Bureau, or the Federal Trade Commission. Numerous other consumers also publicly complained by posting negative reviews on online platforms such as Yelp and Google. The complaints detail egregious and unlawful conduct harming consumers during the most vulnerable and emotional moments in their lives, when they are trying to say goodbye to a loved one. As a result, DCWP initiated an investigation into the allegations of unlawful conduct. In addition to reviewing the consumer complaints, DCWP inspectors and investigators also conducted in-person inspections, as well as undercover investigations and phone calls. This action is a direct result of the investigation, which revealed that R.G. Ortiz's conduct systemically violates the laws and rules of the City of New York.

4. R.G. Ortiz consistently fails to perform services as agreed to, and for which consumers have paid, including but not limited to regularly misrepresenting the length of time it will take to return cremated remains of loved ones; failing to provide death certificates of loved ones; failing to provide specific items such as prayer cards for funeral services; failing to provide transportation of remains as scheduled; failing to prepare remains properly for funeral services with dressing, hair, makeup and embalming services; and broadly failing to treat remains with an acceptable level of care and respect.

5. According to several consumers, R.G. Ortiz often refuses to disclose the location of loved ones' remains to consumers upon their requests, leaving grieving family members distressed and worrying that their loved ones' remains are lost, mixed up with other remains, or may have been accidentally disposed of.

6. R.G. Ortiz also frequently fails to comply with specific consumer protections intended to prevent the precise sort of exploitative conduct by funeral service providers towards consumers; Respondent regularly fails to give consumers itemized receipts for funeral services, fails to display caskets with the required price and/or model and composition information, fails to display all caskets in the same manner, fails to display and make available to consumers the General Price List in the main public entrance and in all areas where sales are discussed, and fails to display the necessary ownership information in their physical store locations.

7. Additionally, at least five of R.G. Ortiz's locations fail to give required price range information over the phone.

8. The Department finds that R.G. Ortiz's deceptive practices violate New York City Administrative Code ("NYC Code") § 20-700 *et seq* and Title 6 of the Rules of the City of New York (the "Rules" or "RCNY") § 5-01 *et seq* (collectively, the "Consumer Protection Law" or "CPL"), and that its actions also violate the laws and rules governing funeral service providers and retail service establishments found in NYC Code §§ 20-731, 20-732, 20-733, 20-734, and 20-736; and 6 RCNY §§ 5-32, 5-161, 5-162, 5-163, 5-164, and 5-165.

9. By this proceeding, DCWP seeks restitution to aggrieved consumers, civil penalties, and such other relief as authorized by section 2203(h) of Chapter 64 of the New York City Charter ("Charter"), the NYC Code, and the Rules.

PARTIES

10. DCWP is a mayoral agency of the City of New York responsible for protecting and enhancing the daily economic lives of New Yorkers to create thriving communities. DCWP is charged with the protection and relief of the public from deceptive, unfair, and unconscionable practices, and for the maintenance of standards of integrity, honesty, and fair dealing among

persons engaging in licensed activities. Charter section 2203(h) and Chapter 20 of the NYC Code authorize DCWP to enforce the laws and rules governing “providers of funeral services.”²

11. R.G. Ortiz is registered with the New York Department of State as a domestic business corporation, with a business address of 524 Southern Boulevard, Bronx, New York, 10455-4600, and operates a total of eight different physical business locations in New York City:

- 524 Southern Boulevard, Bronx, New York, 10455;
- 310 Willis Avenue, Bronx, New York, 10454;
- 2121 Westchester Avenue, Bronx, New York, 10462;
- 2580 Grand Concourse, Bronx, New York, 10458;
- 5204 4th Avenue, Brooklyn, New York, 11220;
- 204 East 116th Street, New York, New York, 10029;
- 235 West 72nd Street, New York, New York, 10023; and
- 4425 Broadway, New York, New York, 10040.

STATEMENT OF FACTS

I. R.G. Ortiz Knowingly Misleads Consumers by Failing to Provide Services as Offered or Required by Law

12. R.G. Ortiz’s business model involves knowingly misleading consumers by consistently failing to provide the services it offers. R.G. Ortiz continues to offer consumers the same services, despite its continuous failures to provide such services as offered. It is particularly important that funeral service providers adhere to transparent and lawful business practices, as their customers are going through some of the most difficult and emotionally challenging times in their lives after losing a loved one.

² *Supra*, fn. 1.

13. And yet, R.G. Ortiz preys on consumers during the most trying times of their lives, convincing distraught people that they, their loved ones, and their wishes will be taken care of, when, in reality, R.G. Ortiz consistently fails to honor the promises made and services paid for.

14. R.G. Ortiz operates its business in a deceptive and predatory way, and has been doing so since at least 2018, with consumers detailing their horrible experiences and the harm they suffered ever since.

15. Despite R.G. Ortiz continually failing to provide the services as offered to consumers, R.G. Ortiz changed nothing about its business practices, and knowingly continues to offer those same services it knew it would fail to properly provide.

a. R.G. Ortiz Misrepresents the Length of Time to Return Cremated Remains and Fails to Communicate Delays

16. One of R.G. Ortiz's most common deceptions pertains to the length of time it takes to return remains to the deceased's loved ones. As reported by at least 11 consumers over about five years, R.G. Ortiz consistently misrepresents that it will take mere days to two to three weeks to return cremated ashes.

17. In reality, however, R.G. Ortiz usually takes much longer to provide the cremains to waiting families, and ignores requests for status updates – often leaving consumers waiting without any sense of what has happened to their loved one for several months. R.G. Ortiz's delays leave already grieving consumers in agony wondering where the remains of their loved ones are, and sometimes even doubting as to whether R.G. Ortiz returned the correct remains once they do receive them.

18. Deception about how long consumers must wait to receive the ashes of their loved ones appears to be a regular part of R.G. Ortiz's business practices:

- R.G. Ortiz promised Aileen Caban that it would take *two weeks* for her to receive her husband’s ashes, but in reality, R.G. Ortiz took *over six weeks*.
- R.G. Ortiz promised Carmen Garcia that her 5-month-old baby’s cremated remains would be ready within *two to three weeks*, but R.G. Ortiz instead waited *two to three months* to return the child’s ashes.
- R.G. Ortiz promised Anthony Conde that Respondent would return his son’s ashes within *one week*; however, it took approximately *three months* for R.G. Ortiz to return the ashes.
- R.G. Ortiz took approximately *six to eight weeks* to return the ashes of Emmalis Torres’s loved one, after initially promising that it would take only *two weeks*. This delay gave the entire family doubts about whether the ashes they received actually belonged to their deceased loved one.
- R.G. Ortiz promised another consumer to return the ashes of his father within *three weeks*; however, the consumer waited approximately *nine agonizing months*.

19. During this intensely stressful time, consumers often have an extremely difficult time getting a hold of R.G. Ortiz to to get updates on the status of the delayed cremations, with Respondent sometimes failing to respond entirely. This lack of responsiveness only serves to increase the helplessness and desperation that consumers feel about being unable to locate their loved ones.

- R.G. Ortiz took between two and three months to return the ashes of Daniel McGinn’s loved one, giving him the “run around” throughout that entire time. McGinn finally tired of R.G. Ortiz’s delays and showed up in-

person; only then did Respondent's employees finally retrieve the ashes from the crematorium.

- R.G. Ortiz forced Yesenia Cranchez-Ayala to wait approximately two and a half months to return her brother's ashes and death certificate, despite initially promising to return them within a few weeks. During that entire ten-week period of uncertainty and waiting, R.G. Ortiz refused to return any of her or her family's calls or messages.
- R.G. Ortiz told Aldo Amaya that it would take a "little longer than usual" for his father's cremation due to the COVID-19 pandemic, but they never warned that it would take several months. R.G. Ortiz returned the ashes approximately three months later, but only after Amaya contacted R.G. Ortiz several times, and threatened a lawsuit.
- R.G. Ortiz promised another consumer that it would take just a few weeks to return the cremated remains and death certificate of the consumer's family member, but R.G. Ortiz took over three months to do so, providing no updates the entire time.
- R.G. Ortiz told another consumer that it would take a maximum of two weeks to receive her nephew's ashes, but left the consumer and her family waiting with no updates for well over a month, before finally providing the beloved family member's ashes.

20. The protracted lack of communication combined with the false promise of rapid service prevents grieving family members from being able to say their goodbyes in the way they planned, or even to be able to make plans in some cases.

21. R.G. Ortiz's lack of care and failure to communicate with consumers has also led consumers to doubt whether the remains they eventually do receive from Respondent are even their loved ones.

22. R.G. Ortiz promised Sol Moreno that it would take seven to ten days for the return of her sister's ashes. After over one month had passed, Moreno finally called R.G. Ortiz for an update. R.G. Ortiz replied that they had just sent out the sister's remains for cremation, and that, as a result, it would take another week to return the ashes. However, the very next day, Moreno received a call from R.G. Ortiz informing her that her sister's ashes were somehow ready to be picked up. Because of this rapid turnaround, Moreno believes that the ashes R.G. Ortiz gave her may not be those of her sister.

23. R.G. Ortiz's consistent and knowing misrepresentations regarding the length of time it will take to return the ashes of consumers' loved ones, and failure to communicate appropriate information or updates to consumers, has devastating psychological effects on consumers who are already grieving and in a vulnerable mental state.

b. R.G. Ortiz Fails to Give Information Regarding the Care or Whereabouts of a Body Upon Request of a Consumer

24. For some consumers, however, even finally contacting Respondent provides no respite, because in addition to violating the CPL by failing to provide remains in a timely fashion as agreed to and paid for, and demonstrating a complete lack of responsiveness to concerned consumers, R.G. Ortiz's conduct also violates NYC Code § 20-733(c), which further governs funeral providers as it relates to the whereabouts of a body or cremains.

25. When consumers inquire as to the whereabouts of their deceased loved ones, R.G. Ortiz often does not know, or refuses to reveal, where the consumer's deceased loved one's remains are located. At a time when these consumers have experienced extensive heartbreak,

R.G. Ortiz makes matters worse by not keeping track of the body, which has been given to the business for caretaking, safekeeping, and preparation for final farwells. At least five consumers reported that R.G. Ortiz failed to give information regarding the care or whereabouts of the remains of loved ones upon their request for this information.

26. Anthony Conde called R.G. Ortiz numerous times in an attempt to obtain information regarding the whereabouts of his son's ashes, and R.G. Ortiz repeatedly gave him the "run around," by refusing to give him any specific information.

27. Aileen Caban called R.G. Ortiz to ask where her husband's remains were, and an R.G. Ortiz employee stated that they "did not know."

28. Similarly, another consumer called to inquire about the status of her grandmother's ashes, and an R.G. Ortiz employee stated that they "did not know" where the ashes were and that they "did not know" where they had sent the remains.

29. Yesenia Cranchez-Ayala contacted R.G. Ortiz to inquire about the location of her brother's body, and they would not tell her—or could not tell her, which is equally as harmful.

30. After several unsuccessful attempts to get in contact with R.G. Ortiz over the course of three months, one consumer finally went to an R.G. Ortiz location in person. Remarkably, they sent her to a back room filled with different deceased individuals' cremated remains, and told her to locate her grandmother's ashes herself. After the pain of losing a family member, being made to sift through rows of other people's remains expands that trauma exponentially.

c. R.G. Ortiz Fails to Provide Items and Services As Agreed

31. R.G. Ortiz fails to provide other items and services to consumers that are offered and agreed to, and for which consumers have paid, beyond the timing of services. Enticing

consumers to use a business by making specific agreements—often including extra add-ons that are paid for, only to bait-and-switch and fail to provide what was promised and paid for, is precisely the sort of conduct that the CPL makes unlawful. And yet, this seems to be R.G. Ortiz’s business model.

32. Consumers cannot rely on R.G. Ortiz providing the paid-for printed materials, or even space for the funeral. In one case, R.G. Ortiz agreed to provide a consumer with prayer cards to give attendees during the funeral service for her father. However, R.G. Ortiz failed to provide the prayer cards until after the service was complete, rendering them completely useless.

33. Similarly, R.G. Ortiz agreed to provide a different consumer with prayer cards containing specific language requested for their loved one’s funeral service. But when R.G. Ortiz actually provided the prayer cards, they did not include the specified religious language that was meaningful to the consumer, and to make matters worse, the prayer cards listed the incorrect date of death.

34. Another consumer used R.G. Ortiz for services for her grandson, and specifically requested that R.G. Ortiz provide a rosary and prayer cards at the viewing, which Respondent stated they would do. However, R.G. Ortiz not only failed to provide either of the agreed-to items, but Respondent failed to even make a room available for the viewing, so everyone in attendance had to stand and wait in the hallway for hours before finally being moved into a makeshift room for the viewing service. To add insult to injury, R.G. Ortiz had put the consumer’s grandson’s clothes on inside-out for the viewing.

35. R.G. Ortiz also breaks promises to handle and transport the bodies of loved ones properly. R.G. Ortiz agreed to transport the remains of Dionela Maria’s family member to the Dominican Republic for a funeral service being held there. R.G. Ortiz and Maria agreed that

the remains would arrive by a specific date, and she planned the service accordingly, but— with no warning— R.G. Ortiz did not transport the remains until two days after the agreed-upon date, which caused a great deal of stress for this consumer and her family.

36. Similarly, R.G. Ortiz agreed to pick up the remains of a different consumer's nephew from the morgue as part of Respondent's services, but R.G. Ortiz failed to do so until more than three weeks after the initial expected date. As a result, the remains were in horrible condition for the scheduled viewing, as R.G. Ortiz had allowed them to significantly decompose.

37. Another consumer, Krystal Gonzalez, used R.G. Ortiz for funeral services for her grandmother. As part of the funeral services Gonzalez purchased, R.G. Ortiz agreed to do Gonzalez's deceased grandmother's hair and makeup for the funeral service. However, on the date of viewing, R.G. Ortiz failed to provide this agreed-upon service, forcing Gonzalez and her family to do their grandmother's hair and makeup themselves before the viewing, a task that should not fall on any amateur, much less on grieving family members.

38. The horror stories go on and on; Mary Bonet used R.G. Ortiz for her mother's funeral services, but R.G. Ortiz's funeral director arrived between one to two hours late. As a result, the cemetery placed her mother's coffin in the ground before the ceremony could even take place. Bonet requested a refund, but R.G. Ortiz ignored her request.

39. Similarly, another consumer paid R.G. Ortiz to have her mother cremated, but R.G. Ortiz never picked up the body from the medical examiner's office, and so her mother's remains were eventually sent to a public burial site. The consumer had to undergo the complicated and traumatic process of having her mother's body exhumed due to R.G. Ortiz's failure.

d. R.G. Ortiz Fails to Provide Funeral Services as Offered by Presenting Remains in Unacceptable Conditions

40. Funeral services are meant to be a farewell, and to afford those grieving the chance to gather and seek comfort in one another. Unfortunately, R.G. Ortiz often presents remains for viewing services that are in unacceptable condition, causing families and loved ones a great deal of unnecessary additional angst amidst their grief.

41. R.G. Ortiz agreed to dress the husband of consumer Aileen Caban in clothes that she provided, a sentimental but not especially rare request. But when it came time for the viewing, R.G. Ortiz employees informed Caban that they did not dress her husband in the clothes she had provided, claiming that there was “too much liquid in the body.” As a result, Caban’s husband’s body appeared in terrible condition, and was actually sitting inside a plastic bag for the viewing. Caban recalls the experience of seeing her husband’s remains presented in such terrible condition as extremely traumatic.

42. Another consumer used R.G. Ortiz for services after a loved one passed away. Upon seeing the body purportedly prepared for viewing, the consumer had doubts that R.G. Ortiz had embalmed the remains correctly, or at all, as the loved one’s body emitted a terrible smell, and the body appeared to already be visibly decomposing.

43. Another consumer who paid R.G. Ortiz for funeral services for their nephew had a similarly horrible experience. The consumer’s nephew’s remains were in terrible shape for the planned viewing – the body was not properly prepared, and in fact was still in a body bag, and there were “bugs flying all around.”

44. In another consumer’s experience, when she arrived for her grandson’s viewing service, her grandson’s remains were leaking liquid, the wax on her grandson’s skin appeared to

be melting, the body appeared to be in a state of decomposition, and one of her grandson's eyes would not stay shut, constantly opening and moving throughout the viewing.

45. R.G. Ortiz's consistent failure to provide funeral services to consumers as agreed has left many consumers feeling cheated, exploited, and traumatized at a time when they are already grieving the loss of loved ones.

II. R.G. Ortiz Fails to Give Consumers Itemized Receipts in Violation of the Rules

46. R.G. Ortiz consistently fails to provide consumers with itemized receipts for services and items for which consumers have paid. In doing so, it fails to comply with laws and rules specifically designed to ensure transparency for consumers.

47. In fact, the documents Respondent provides to consumers after they pay are often hardly legible; R.G. Ortiz provided one consumer with a piece of paper with handwritten scribbles after purchasing funeral home services. This "receipt" could barely be read, and certainly was not itemized.

48. R.G. Ortiz similarly handed another consumer, Knicole Edwards, a piece of paper with only a total amount paid listed, with no specifics as to what she had purchased. At least two other consumers had similar experiences in which R.G. Ortiz did not provide itemized receipts.

49. The Department verified that R.G. Ortiz continues to violate the rules. On December 4, 2023, DCWP Inspector Oyebade Ayodele conducted an inspection at R.G. Ortiz's location at 2580 Grand Concourse in the Bronx. During this inspection, Inspector Ayodele reviewed a receipt R.G. Ortiz gave to a consumer named Orlando Matos on October 3, 2023, and confirmed that R.G. Ortiz had not itemized this receipt in any way.

III. R.G. Ortiz Fails to Display the Actual Retail Price and/or Composition and Model Number on Each Casket as Required by NYC Law

50. In an apparent effort to further obscure pricing information and restrict the options available to consumers, R.G. Ortiz often fails to display the retail prices, and the composition and model number on its caskets.

51. On October 11, 2023, DCWP Investigator Jonathan Ramirez conducted an undercover investigation at the R.G. Ortiz located at 2121 Westchester Avenue in the Bronx. During the investigation, Investigator Ramirez found that R.G. Ortiz failed to display the composition and model numbers on each of the caskets on display.

52. Then, approximately two months later, on December 4, 2023, Inspector Ayodele conducted an inspection at R.G. Ortiz located at 524 Southern Boulevard in the Bronx. During the inspection, Inspector Ayodele found that R.G. Ortiz again failed to display the composition and model numbers on each of the caskets, and failed to display the price on at least one of the caskets.

IV. R.G. Ortiz Fails to Prominently Display Its General Price List

53. R.G. Ortiz's failure to display the General Price List of the services and items offered to consumers underscores its deceptive business practices by even further concealing the range of options and price points available.

54. On October 11, 2023, during an undercover investigation at R.G. Ortiz located at 2121 Westchester Avenue in the Bronx, Investigator Ramirez found that R.G. Ortiz failed to display the General Price List in the main public entrance, and in all areas where sales are discussed, as is required by NYC Code § 20-732.

V. R.G. Ortiz Fails to Display the Least Expensive Casket in the Same Manner as the Other Caskets in Violation of the Rules

55. Another step R.G. Ortiz takes in an effort to conceal the options available to consumers is seemingly obscuring the least expensive casket options.

56. At the December 4, 2023 inspection of the 524 Southern Boulevard location, Inspector Ayodele observed that R.G. Ortiz failed to display the least expensive casket in the same manner as the other caskets, in that Respondent had positioned the cheapest casket in the corner with an old lampshade placed on top of it, making it appear to consumers as if it were not for sale.

57. That same day at the 2580 Grand Concourse location, Inspector Ayodele found that R.G. Ortiz failed to display the least expensive casket in the same manner as the other caskets, with the cheapest casket displayed with very poor-quality photographs of a deceased individual surrounding it, as an example set-up for a funeral, whereas R.G. Ortiz displayed the other caskets in a simple and clean manner, without any poor-quality example decor on them.

VI. R.G. Ortiz Fails to Give Information Regarding the Range of Prices for Services Over the Telephone

58. Further illustrating R.G. Ortiz's efforts to obscure price calculations and conceal options available to consumers, Respondent consistently fails to disclose information regarding the range of prices for services over the phone.

59. After conducting several undercover telephone investigations at numerous R.G. Ortiz locations, it is clear that R.G. Ortiz provides seemingly random price quotes for the same or similar services with no explanation, demonstrating that R.G. Ortiz is, at the very least, arbitrary in its pricing, or, at the very worst, intentionally exploiting consumers. To ensure fair

pricing, transparency as to all options available, and consistency among consumers, the law requires R.G. Ortiz provide a range of prices for services over the phone.

60. DCWP Investigator Ramirez called all of R.G. Ortiz's eight locations and was able to reach five of them. For each location Investigator Ramirez reached over the phone, Investigator Ramirez requested a quote for the exact same services: funeral services including a burial. Investigator Ramirez received five different quotes without any ranges, varying in price by over \$8,000, with no explanation for the discrepancies.

61. On December 21, 2023, Investigator Ramirez conducted an undercover telephone investigation of the R.G. Ortiz location at 204 East 116th Street in Manhattan. During this phone call, Investigator Ramirez inquired about the cost of funeral services, including a burial. At no time did the employee provide Investigator Ramirez with various options, range of prices for each service or item, or any additional detail. The R.G. Ortiz employee simply stated that the casket, viewing, transportation of the body from the hospital, cemetery costs, and church costs would total \$12,000—with no breakdown or itemization, much less options at various price points. In fact, R.G. Ortiz failed to give any range of prices for any of the items and services it included in its quote.

62. On December 21, 2023, Investigator Ramirez conducted an undercover telephone investigation of R.G. Ortiz located at 235 West 72nd Street in Manhattan. During this phone call, Investigator Ramirez inquired about the cost of funeral services, including a burial. Though the R.G. Ortiz employee asked a few questions of Investigator Ramirez, they again did not give a range of prices for the services or items requested. The R.G. Ortiz employee simply stated that the transportation of the body, embalming, preparation, open casket viewing, death certificate,

flowers, and casket would total \$6,407. Again, R.G. Ortiz failed to give any range of prices for these items and services.

63. On December 22, 2023, Investigator Ramirez conducted an undercover telephone investigation of R.G. Ortiz located at the 2580 Grand Concourse location. During this phone call, Investigator Ramirez inquired about the cost of funeral services, including a burial. The R.G. Ortiz employee asked a series of questions, including whether there was already a cemetery plot, the location of the body, and the weight of the individual. R.G. Ortiz stated that the total for funeral services would be \$5,897.

64. On December 27, 2023, Investigator Ramirez conducted an undercover telephone investigation of R.G. Ortiz at the 524 Southern Boulevard location. During this phone call, Investigator Ramirez inquired about funeral services, including asking for a price range for burial. The R.G. Ortiz employee initially stated that Investigator Ramirez would need to come in person to get this information. Investigator Ramirez stated that he needed to know what services R.G. Ortiz would provide. The R.G. Ortiz employee asked a series of questions, including which cemetery, whether there would be a viewing, and where the body was located. The R.G. Ortiz employee then gave a total estimate of \$11,300, without providing any range of prices for the various components of funeral services.

65. On December 27, 2023, Investigator Ramirez conducted an undercover telephone investigation of R.G. Ortiz located at 5204 4th Avenue in Brooklyn. During this phone call, Investigator Ramirez inquired about the cost of funeral services, including a burial. The R.G. Ortiz employee gave a total estimate of \$3,500, but did not give any range of prices for the funeral services.

66. By not providing consumers with a range of prices for different service options, R.G. Ortiz preserves its ability to charge the consumers whatever they want, entirely at their whim, without the consumer having a true choice in the matter. In fact, the broad range of prices quoted to Investigator Ramirez in his phone calls, all of which related to the same basic services, demonstrates that Respondent is not basing its prices on any consistent or set price range, but rather allowing its representatives to arbitrarily decide what price to ascribe to requested services and products at their will.

VII. R.G. Ortiz Fails to Display Ownership Information

67. On December 6, 2023, DCWP Inspector Alexander Bandy conducted an inspection at the R.G. Ortiz 204 East 116th Street location. During the inspection, Inspector Bandy noted that R.G. Ortiz failed to display ownership information either immediately outside the main entrance to its establishment or immediately inside the main entrance to its establishment.

VIOLATIONS

COUNT ONE

*Engaging in deceptive trade practices in violation of NYC Code § 20-700
At least 23 counts*

68. The CPL prohibits deceptive trade practices, defined as “[a]ny false, falsely disparaging, or misleading oral or written, digital, or electronic statement, visual description or other representation or omission of any kind made in connection with the sale . . . or in connection with the offering for sale . . . of consumer goods or services, or in the extension of consumer credit or in the collection of consumer debts, which has the capacity, tendency or effect of directly or indirectly deceiving or misleading consumers.” NYC Code § 20-701(a). Deceptive trade practices include but are not limited to: “offering goods or services with intent

not to sell them as offered, including by failing to disclose clearly and conspicuously all material exclusions, reservations, limitations, modifications, or conditions on such offer.” NYC Code § 20-701(a)(4).

69. “Each individual statement, description or other representation or omission that constitutes a deceptive trade practice shall give rise to a distinct and independent violation.” NYC Code § 20-703(b).

70. Respondent violated the CPL at least 23 times by making statements and representations to consumers that have the tendency or effect of deceiving or misleading consumers—specifically, by failing to perform services as agreed to and for which consumers have paid. R.G. Ortiz violated NYC Code § 20-700 by consistently and knowingly misrepresenting the amount of time it takes to return cremated remains, failing to provide items and services as promised, and failing to present remains in an acceptable condition for viewing. On this count, Petitioner seeks civil penalties of \$525 per violation, or, if the violation was knowing, \$500 to \$3,500 per violation, pursuant to NYC Code § 20-703(a)-(d) and 6 RCNY § 6-47.³

COUNT TWO

*Failing to give information regarding the care or whereabouts of a body upon request of a consumer in violation of NYC Code § 20-733(c)
At least five counts*

71. NYC Code § 20-733(c) provides, “[i]t shall be unlawful for any provider of funeral services... to fail to promptly release a body or give information regarding the care or whereabouts of a body upon request of a customer.”

³ On September 26, 2021, the City Council passed Local Law 98 of 2021, which amended the CPL, effective January 24, 2022. The amendments, among other things, increased the amount for “knowing” violations from \$500 per violation to \$3,500 per violation. The amendment also added NYC Code § 20-703(b).

72. Respondent violated NYC Code § 20-733(c) at least five times by failing to or refusing to give information regarding the care or whereabouts of remains upon the requests of consumers. For each violation, Petitioner seeks civil penalties of \$750. 6 RCNY § 6-52.

COUNT THREE

*Failing to give consumers itemized receipts in violation of 6 RCNY § 5-32(b)-(c)
At least five counts*

73. 6 RCNY § 5-32 provides, “[a] seller must . . . offer a consumer a receipt for any retail purchase if the amount of the purchase is twenty dollars or more.” 6 RCNY § 5-32(b)(1). Furthermore, “[t]he receipt must contain: (1) the amount of money paid for each item; (2) the total amount of money paid including a separate statement of tax; (3) the date of the purchase; (4) the legal name and address of the seller . . .” 6 RCNY § 5-32(c).

74. Respondent violated 6 RCNY § 5-32 at least five times by failing to provide consumers with itemized receipts after their purchases of funeral services and related items. For each violation, Petitioner seeks civil penalties penalty of \$150. 6 RCNY § 6-47.

COUNT FOUR

*Failing to display the actual retail price and/or composition and model number on each casket
in violation of NYC Code § 20-731(a)
At least two counts*

75. NYC Code § 20-731(a) provides, “[a]ny provider of funeral services who offers a casket for sale, or an outer interment receptable for sale in a selection room, shall prominently display the actual retail price on each casket or outer interment receptable, in at least one-half inch numbers, as well as composition and model number of such casket or outer interment receptable.”

76. 6 RCNY § 5-161 provides, “[t]he retail price, which is required to be prominently displayed on caskets and outer interment receptacles pursuant to § 20-731 of the Administrative Code, must be clearly visible regardless of whether such casket or receptacle is open or closed.”

77. Respondent violated NYC Code § 20-731(a) at least two times: in one instance by failing to display the retail price, composition, and model number on caskets, and in another instance for failing to display the composition and model number on caskets. For each violation, Petitioner seeks civil penalties of \$750. 6 RCNY § 6-52.

COUNT FIVE

*Failing to prominently display its General Price List in violation of NYC Code § 20-732
At least one count*

78. NYC Code § 20-732 provides, “[a]ny provider of funeral services shall prominently display on the funeral services establishment premises and make readily available to any customer or prospective customer a printed presentation sheet. The presentation sheet shall contain an itemized list of all funeral merchandise and services available at the establishment, a statement that the prices therefor are available upon request, and appropriate disclosures regarding legal requirements for procurement of funeral merchandise and services, the form and contents of which shall be prescribed by the commissioner. The presentation sheet shall be made current annually.”

79. 6 RCNY § 5-162(c)(2) provides, “[c]opies of the General Price List shall be clearly visible and easily accessible in all areas of the funeral service establishment where sales or potential sales of funeral services are discussed and in the area within the funeral service establishment that is in the immediate vicinity of the main public entrance to such establishment.”

80. Respondent violated NYC Code § 20-732 at least once by failing to display the General Price List in the main public entrance and in all areas where sales are discussed. For each violation, Petitioner seeks civil penalties of \$750. 6 RCNY § 6-52.

COUNT SIX

*Failing to display the least expensive casket in the same manner as the other caskets in violation of NYC Code § 20-734
At least two counts*

81. NYC Code § 20-734 provides, “[i]t shall be unlawful for any provider of funeral services . . . to fail to display the three least expensive caskets offered for sale in the same general manner as other caskets are displayed, provided that if fewer than twelve caskets are displayed, only the least expensive casket must be so displayed; or . . . to interfere with the customer's selection of merchandise or services offered for sale including . . . falsely discouraging any purchase by disparagement, by suggestion that any merchandise or service is not readily available or by defacement.”

82. 6 RCNY § 5-163(a)-(b) provides, “[c]askets must be displayed in the same general manner as required by § 20-734 of the New York City Administrative Code, both in printed material supplied by a provider of funeral services and in all exhibits shown to customers and prospective customers. Standards for the same general manner of display include, but are not limited to, lighting, visibility, accessibility, and overall condition of caskets, as well as to any representations made about them. . . . For purposes of § 20-734(b)(2) of the New York City Administrative Code, defacement shall include, but not be limited to, the failure to provide the same care and maintenance for all merchandise which results in some merchandise becoming soiled or damaged.”

83. Respondent violated NYC Code § 20-734 at least two times, by failing to display the least expensive casket in the same manner as the other caskets at two different business locations. For each violation, Petitioner seeks civil penalties of \$750. 6 RCNY § 6-52.

COUNT SEVEN

Failing to give information regarding the range of prices for services over the telephone in violation of NYC Code § 20-736

At least five counts

84. NYC Code § 20-736 provides, “[a]ny provider of funeral services shall, upon request, provide over the telephone, information regarding the range of prices and shall affirmatively disclose the availability of a presentation sheet at the establishment.”

85. 6 RCNY § 5-164(a)-(b) provides, “[w]hen a telephone caller makes an inquiry regarding the cost of funerals, the provider of funeral services shall, during the course of that telephone conversation, give the caller a price range including . . . the cost of all items that such provider requires must be purchased as part of all arrangements for burial or cremation, depending upon which alternative the caller inquires about; and . . . the average cost of a funeral or the cost of a customarily provided funeral. The caller shall be informed of which items of service are included in all prices given. . . . When a telephone caller makes a specific inquiry regarding a category of item or service which is contained in the General Price List, the caller shall, during the course of the telephone conversation, be given the price and description of the most expensive and the least expensive item or service in that category. . . . If there is no variation in price for an item or service, then the provider of funeral services must give the caller a specific price.”

86. Respondent violated NYC Code § 20-736 at least five times, by failing to provide the range of prices over the phone upon request, failing to affirmatively disclose the availability of a presentation sheet, failing to give the cost of all items that R.G. Ortiz requires must be purchased as part of all arrangements for burial, failing to give the average cost of a funeral, and failing to inform a caller which items of service are included in all prices. For each violation, Petitioner seeks civil penalties of \$750. 6 RCNY § 6-52.

COUNT EIGHT

*Failing to display ownership information in violation of 6 RCNY § 5-165(a)(1)-(2)
At least one count*

87. 6 RCNY § 5-165(a)(1)-(2) provides, “[e]very provider of funeral services shall display all of the following ownership information on a sign that is either located immediately outside the main entrance to its funeral services establishment or that is located immediately inside the main entrance to its funeral services establishment. If such sign is located immediately inside the main entrance to such funeral establishment, it must be clearly visible to someone standing inside such entrance and shall not be placed on the back of the door to such main entrance or in any other location where it would be hidden from view. . . . (1) The name of every licensed funeral director who holds at least a ten percent ownership interest in the corporation, limited liability company, partnership, limited liability partnership, association, organization, or other business entity which operates such funeral services establishment. (2) The names of any and all corporations, limited liability companies, partnerships, limited liability partnerships, associations, organizations, or other business entities which directly or indirectly hold an ownership interest of ten percent or more in the corporation, limited liability company, partnership, limited liability partnership, association, organization, or other business entity which operates such funeral services establishment.”

88. Respondent violated 6 RCNY § 5-165(a)(1)-(2) at least once by failing to display the required ownership information on a sign that is either located immediately outside the main entrance to its establishment or that is located immediately inside the main entrance to its establishment. For this violation, Petitioner seeks civil penalties of \$750. 6 RCNY § 6-52.

RELIEF SOUGHT

WHEREFORE, the Department respectfully requests that OATH issue a Report and Recommendation pursuant to NYC Charter § 2203(h)(1) recommending the following:

- I. Ordering Respondent to pay restitution to consumers set forth in the petition, and all other affected consumers in an amount to be determined at trial, whether named or unnamed, pursuant to NYC Code § 20-703(i)(2);
- II. Ordering Respondent to pay civil penalties pursuant to NYC Code § 20-703(a) and (d) of \$500 per knowing violation of NYC Code § 20-700 that occurred prior to January 24, 2022 (at least 19), and \$3,500 per knowing violation of NYC Code § 20-700 that occurred after January 24, 2022 (at least 4); \$150 for each violation of 6 RCNY § 5-32; \$750 for each violation of NYC Code §§ 20-731, 20-732, 20-733, 20-734, 20-736; and \$750 for each violation of 6 RCNY § 5-165.
- III. Granting such other and further relief as is deemed just and proper.

Dated: April 19, 2024
New York, New York

For: Vilda Vera Mayuga
Commissioner
New York City Department of Consumer and
Worker Protection

By: 
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