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Exempt from fees pursuant to
Government Code § 6103

**ENDORSED
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ALAMEDA COUNTY**

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CLERK OF THE SUPERIOR COURT

By Donnell G. Drew Deputy

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The People of the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

THE PEOPLE OF THE STATE OF
CALIFORNIA,
vs. Plaintiff,

SERVICE CORPORATION
INTERNATIONAL, a Texas Corporation; SCI
DIRECT, INC., a Florida Corporation; S.E.
ACQUISITION OF CALIFORNIA, INC., a
California Corporation; S.E. COMBINED
SERVICES OF CALIFORNIA, INC., a
California Corporation, dba NEPTUNE
SOCIETY OF NORTHERN CALIFORNIA;
NEPTUNE MANAGEMENT CORP, a
California Corporation; TRIDENT SOCIETY,
INC., a California Corporation; and DOES 1
through 100, inclusive,

Defendants

UNLIMITED CIVIL JURISDICTION

Case No.

RG19045103

COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
RESTITUTION, AND OTHER EQUITABLE
RELIEF

Business and Professions Code sections
§17200 *et seq.* & § 17500 *et seq.*

1 The People of the State of California (“the People” or “Plaintiff”) bring this suit,
2 represented by the Attorney General of the State of California and the District Attorneys for the
3 City and County of San Francisco, Alameda County, and Marin County, who are authorized to
4 protect the general public within the State of California from false, deceptive, or misleading
5 representations and from unlawful and unfair business practices. The People hereby allege the
6 following on information and belief:

7 INTRODUCTION

8 1. Everyone dies. And, in California, nearly two thirds of those who die choose to be
9 cremated. Many decide to prepay for cremation services to spare their loved ones from dealing
10 with funeral arrangements or for other personal reasons. Agreements entered into prior to the
11 intended beneficiary’s death are known as “preneed” agreements. Defendants are a group of
12 related companies owned and operated by Service Corporation International, a Texas corporation.
13 Hereinafter, Defendants are sometimes collectively referred to as SCI. SCI is North America’s
14 largest seller and provider of funeral, cremation, and cemetery services, including preneed
15 cremation services.

16 2. While preneed agreements can benefit consumers, they bring inherent risks. At the
17 time the services are needed – sometimes years or decades after the date of purchase – the funeral
18 service provider may not have sufficient funds to provide the services or may no longer be in
19 business. On the other hand, the intended beneficiary might move out of the company’s service
20 area or decide not to be cremated.

21 3. To protect California’s consumers from these risks, California law requires funeral
22 service providers like SCI to place all money received from customers for preneed cremation
23 plans, and from any agreement collateral to such a plan, into fully refundable trusts (“preneed
24 trusts”). A customer who cancels his or her preneed plan is entitled to receive a full refund of the
25 trusted money.

26 4. However, since at least 2014, SCI has engaged in a systematic, unlawful, and
27 deceptive enterprise designed to underfund the preneed trusts of its customers.

28 5. Defendants’ scheme begins with a pricing model that steers nearly all customers to

1 a product called the Standard Neptune Plan, a package of cremation services and merchandise.¹
2 Although consumers can purchase stand-alone preneed cremation services from Defendants, 99
3 percent (99%) chose the Standard Neptune Plan as of 2016.

4 6. Despite advertising the Standard Neptune Plan as a single package with a single
5 price, SCI ultimately requires customers who select the Plan to sign separate but collateral
6 agreements, including one for cremation services and a second for related merchandise. When
7 allocating a customer's payment between the two agreements, Neptune gives the merchandise
8 100% of its value while heavily discounting the value of the services. SCI then trusts only the
9 money it allocates to the cremation services agreement and pockets the substantial amount it
10 arbitrarily allocates to merchandise agreement.

11 7. Despite withholding approximately half of consumers' money from the trust, SCI
12 leads consumers to believe that all of their money is protected. Indeed, during the time period at
13 issue here, this critical information about which money is protected and which money is not
14 appeared nowhere in SCI's price list or marketing materials. SCI's scheme has been extremely
15 effective: to date, SCI appears to have wrongfully withheld over \$100 million from the preneed
16 trust.

17 8. SCI has also engaged in a number of additional unlawful and deceptive practices in
18 connection with its services. For example, SCI: offered installment payment plans that violated
19 numerous provisions of applicable California law; advertised veteran's benefits without providing
20 statutorily mandated disclosures; and falsely told consumers that it owned and operated its
21 crematories, engendering a false sense of trust.

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26
27 ¹ SCI's California Locations give the Standard Neptune Plan various alternative titles
28 depending on the trade name of the location. This complaint collectively refers to all of SCI's
California locations' Standard Plans as the "Standard Neptune Plan" or "Plan."

PARTIES AND VENUE

9. The People of the State of California are the Plaintiff in this case. They bring this action by and through Xavier Becerra, Attorney General of the State of California, Suzy Loftus, Interim District Attorney for the City and County of San Francisco, Nancy E. O'Malley, District Attorney for Alameda County, and Lori E. Frugoli, District Attorney for Marin County, who are each authorized by Business and Professions Code sections 17204, 17206, 17535, and 17536 to enforce the Unfair Competition Law or UCL (Bus. & Prof. Code, § 17200 et seq.) and the False Advertising Law or FAL (Bus. & Prof. Code, § 17500 et seq.).

10. Defendant Service Corporation International is now, and at all times mentioned in this complaint was, a Texas corporation with its principal executive offices at 1929 Allen Parkway, Houston, Texas. During the times mentioned herein, Service Corporation International conducted business throughout the State of California, including within the City and County of San Francisco, the County of Alameda, and the County of Marin, either directly or through control of its subsidiaries. Service Corporation International did and does own and/or operate over 160 funeral service locations throughout the State of California under various trade names ("SCI's California Locations"), either directly or through control of its subsidiaries.

11. Defendant SCI Direct, Inc., is now, and at all times mentioned in this complaint was, a Florida corporation with its principal executive offices at 1929 Allen Parkway, Houston, Texas and its principal place of business in California at 2730 Gateway Oaks Drive, Suite 100, Sacramento, California, 95833. During the times mentioned herein, SCI Direct, Inc. conducted business throughout the State of California, including within the City and County of in San Francisco, the County of Alameda, and the County of Marin, either directly or through control of its subsidiaries. SCI Direct, Inc. did and does own and/or operate some or all of SCI's California Locations, either directly or through control of its subsidiaries. SCI Direct, Inc., is now, and at all times relevant to this action was, a subsidiary of Service Corporation International, either directly or through other subsidiaries owned or controlled by Service Corporation International.

12. Defendant S.E. Acquisition of California, Inc., is now, and at all times relevant to this action, was, a California corporation with its principal place of business in California at 2730

1 Gateway Oaks Drive, Suite 100, Sacramento, California, 95833. During the times mentioned
2 herein, S.E. Acquisition of California, Inc. conducted business throughout the State of California,
3 including within the City and County of San Francisco, the County of Alameda, and the County
4 of Marin, either directly or through control of its subsidiaries. S.E. Acquisition of California, Inc.
5 did and does own and/or operate some or all of SCI's California Locations, either directly or
6 through control of its subsidiaries. S.E. Acquisition of California, Inc., is now, and at all times
7 mentioned in this complaint was, subsidiary of Service Corporation International, either directly
8 or through other subsidiaries owned or controlled by Service Corporation International.

9 13. Defendant S.E. Combined Services of California, Inc., is now, and at all times
10 relevant to this action, was, a California corporation with its principal place of business in
11 California at 2730 Gateway Oaks Drive, Suite 100, Sacramento, California, 95833. During the
12 times mentioned herein, S.E. Combined Services of California, Inc., operated several of SCI's
13 California Locations under the trade name "The Neptune Society of Northern California,"
14 including in the City and County of San Francisco, the County of Alameda, and the County of
15 Marin. S.E. Combined Services of California, Inc. continues to own and/or operate several of
16 SCI's California Locations, including under the trade name "The Neptune Society of Northern
17 California," either directly or through control of its subsidiaries. S.E. Combined Services of
18 California, Inc., is now, and at all times mentioned in this complaint was, a subsidiary of Service
19 Corporation International, either directly or through other subsidiaries owned or controlled by
20 Service Corporation International.

21 14. Defendant Neptune Management Corp., is now, and at all times mentioned in this
22 complaint was, a California corporation with its principal executive offices at 1250 South Pine
23 Island Road, Plantation, FL 33324 and its principal place of business in California at 2730
24 Gateway Oaks Drive, Suite 100, Sacramento, California, 95833. During the times mentioned
25 herein, Neptune Management Corp. conducted business throughout the State of California,
26 including within the City and County of in San Francisco, the County of Alameda, and the
27 County of Marin, either directly or through control of its subsidiaries. Neptune Management
28 Corp. did and does own and/or operate some or all of SCI's California Locations, either directly

1 or through control of its subsidiaries. Neptune Management Corp., is now, and at all times
2 relevant to this action was, a subsidiary of Service Corporation International, either directly or
3 through other subsidiaries owned or controlled by Service Corporation International.

4 15. Defendant Trident Society, Inc., is now, and at all times mentioned in this
5 complaint was, a California corporation with its principal executive offices at 1929 Allen
6 Parkway, Houston, TX 77019. During the times mentioned herein, Trident Society, Inc.
7 conducted business throughout the State of California, including within the City and County of in
8 San Francisco, the County of Alameda, and the County of Marin, either directly or through
9 control of its subsidiaries. Trident Society, Inc. did and does own and/or operate some or all of
10 SCI's California Locations, either directly or through control of its subsidiaries. Trident Society,
11 Inc., is now, and at all times relevant to this action was, a subsidiary of Service Corporation
12 International, either directly or through other subsidiaries owned or controlled by Service
13 Corporation International.

14 16. The true names and capacities, whether individual, corporate, associate, or
15 otherwise, of the defendants sued herein under the fictitious names of DOES 1 through 100,
16 inclusive, are unknown to Plaintiff, who therefore sues said defendants by such fictitious names.
17 Each fictitiously named defendant is responsible in some manner for the violations of law herein
18 alleged. Plaintiff will amend its complaint to show the true names and capacities of such
19 defendants, as well as the manner in which each fictitious defendant is responsible for the
20 violations of law herein alleged, when these facts are ascertained.

21 17. Defendants Service Corporation International; SCI Direct, Inc.; S.E. Acquisition of
22 California, Inc.; S.E. Combined Services of California, Inc.; Neptune Management Corp.; Trident
23 Society, Inc.; and DOES 1 through 100 shall be referred to collectively as "SCI" or "Defendants."

24 18. At all relevant times, each Defendant has committed the acts, caused others to
25 commit the acts, ratified the commission of the acts, or permitted others to commit the acts
26 alleged in this complaint and has made, caused, ratified, or permitted others to make, the untrue
27 or misleading statements alleged in this complaint. Whenever reference is made in this complaint
28 to any act of SCI or Defendants, such allegation shall mean that each Defendant acted

1 individually and jointly with the other Defendants.

2 19. At all times mentioned herein, a unity of interest and ownership existed among and
3 between Defendants and SCI's California Locations such that the separateness of Defendants
4 from one another and of the Defendants from SCI's California Locations never existed.
5 Recognition of the privilege of separate existence would promote injustice because Defendants
6 controlled or were controlled by each other, and Defendants controlled SCI's California
7 Locations, such that Defendants and SCI's California Locations were merely instrumentalities,
8 agents, conduits, or adjuncts of each other.

9 20. Each and every Defendant, named and unnamed, conspired with and aided and
10 abetted each and every other Defendant to commit the unlawful, unfair, and deceptive practices
11 alleged in the complaint.

12 21. Whenever in this complaint reference is made to any act of any corporate
13 Defendant, such allegation shall be deemed to mean that such corporate Defendant did the acts
14 alleged in the complaint through its officers, directors, agent, employees, subsidiaries and/or
15 representatives while they were acting within the actual or ostensible scope of their authority.

16 22. The violations of law herein described have been committed throughout the State of
17 California, including, but not limited to, within the City and County of San Francisco, the County
18 of Alameda, and the County of Marin.

19 23. The actions of SCI, as set forth below, are in violation of the laws and public
20 policies of the State of California and are inimical to the rights and interests of the general public
21 as consumers, competitors, and citizens. This suit is brought in the public interest to protect the
22 thousands of consumers in the State of California who were and are exposed to Defendants'
23 conduct. The People have a substantial state interest in eliminating and preventing the unlawful
24 practices alleged herein and ensuring an honest and fair marketplace. Unless Plaintiff is granted
25 the remedies sought herein, including injunctive relief by order of this Court, SCI will continue to
26 engage in the unlawful acts and practices set forth below and will continue to cause injury and
27 harm to the general public.
28

LAW GOVERNING PRENEED CREMATION SERVICES

24. Funeral services, including cremation services, are sold either after or before the person for whom the services are intended has died. Services sold after the person has died are called “at-need services.” Services sold before the person has died are called “preneed services.”

25. When a consumer purchases preneed funeral services, the consumer typically pays for or agrees to pay for the services at the time of purchase, either by full payment up-front or through an installment contract. Regardless of the payment structure, the services are not provided until after the intended beneficiary of the services has died.

26. Because consumers may purchase preneed funeral services years, or even decades, before the services are needed, there is a risk that the services purchased will not be available when needed. For example, the consumer may move out of the provider’s service area, resulting in the consumer losing the money spent on preneed services. Alternatively, the funeral service provider may go out of business in the intervening years. This second risk is not purely hypothetical. In 2000, financial distress forced SCI to petition the State of Florida’s funeral board for permission to remove preneed money from its trust.

27. To address those risks, in 1965 the California Legislature enacted the Short Act, set forth in Division 3, Chapter 12, Article 9 of the California Business and Professions Code, sections 7735 *et seq.* The Short Act regulates the sale of preneed funeral services.

28. Pursuant to section 7735 of the Business and Professions Code, funeral service providers must place all money paid directly or indirectly under a preneed services agreement, or under an agreement collateral to a preneed services agreement, into a preneed trust until those services are delivered.

29. Pursuant to section 7737 of the Business and Professions Code, a consumer may cancel a preneed services agreement at any time before the services are provided and receive a full refund of the principal amount prepaid as well as any income accrued while in trust. In the event of a cancelation, the Short Act permits the funeral establishment to retain a revocation fee, but that fee can be drawn only from the preneed trust’s earnings.

30. Section 7741 of the Business and Professions Code provides that Article 9 (the

Short Act) does not apply to “cemetery property; cemetery commodities; cemetery service; or merchandise that is delivered as soon as paid for.”

GENERAL ALLEGATIONS

SCHEME TO UNDERFUND THE PRENEED TRUST

31. SCI sells both preneed and at-need cremation services. It promotes preneed cremation services as allowing consumers to control their own funerals, lock in current prices, and spare their loved ones the financial and logistical burden of having to make funeral arrangements.

SCI's Pricing Structure is Designed to Drive Consumers to the Standard Neptune Plan

32. SCI's two-page General Price List of Pre-Need Cremation Services (the “General Price List”) lists the prices of preneed packages and individual services and merchandise that SCI sells. From at least 2014 to the present, the format, structure, and offerings in the General Price List has remained substantially the same, but SCI has updated its General Price List a handful of times to reflect increases in pricing.

33. SCI's General Price List has consistently highlighted one cremation services product -- the Standard Neptune Plan -- and stated that the Standard Neptune Plan consists of a “Preneed Direct Cremation Package” for services and a “Memento Package” for merchandise. The General Price List prominently lists the current price of the Standard Neptune Plan. For example, the October 2018 General Price List states that the Standard Neptune Plan costs around \$2,500.²

34. The back page of the General Price List sets forth itemized selections available to customers under three separate categories: “Services (Sold on a preneed basis)”; “Merchandise”; and “MEM” (Making Everlasting Memories), an on-line memorial. Next to each item is the listed price if purchased separately.

35. The back page of the General Price List also indicates which itemized selections are

² The General Price Lists used by SCI's various locations throughout California contain slightly different pricing, but are otherwise substantially the same. This complaint refers to the pricing used by SCI's California Locations operating under the trade name Neptune Society of Northern California (“Neptune Society of Northern California”).

1 included in the Standard Neptune Plan. For example, the October 2018 General Price List states
2 that the following selections are included in the Standard Neptune Plan:

- 3 • Services: the Basic Services of Funeral Director and Staff, transportation of the
4 body, use of licensed climate controlled holding facility for seven days, cremation, a cremation
5 container, and packaging and shipping of cremated remains;
- 6 • Merchandise: a memento chest with a photo frame lid, an urn, a plaque, thank you
7 cards, a planning guide, and access to an online memorial.

8 36. According to the information printed on the back page of the General Price List,
9 customers who do not choose the Standard Neptune Plan have two alternate options for
10 purchasing preneed cremation services from SCI: (1) the customer can purchase a Direct
11 Cremation services bundle, which includes some, but not all, of the services included in the
12 Standard Neptune Plan;³ or (2) the customer can separately purchase any number of the cremation
13 services listed, a la carte.

14 37. Based on SCI's pricing structure, the Standard Neptune Plan is most cost-effective
15 way to purchase SCI's preneed cremation services and merchandise. Take for example the
16 company's 2016 pricing, which is depicted below. Under that structure, the Standard Neptune
17 Plan (cremation services and merchandise) costs \$2,170. By contrast, the Direct Cremation
18 bundle listed on the back of the General Price List costs \$2,294, despite containing *fewer* services
19 than the Standard Neptune Plan and *no* merchandise at all.

20 38. The Standard Neptune Plan is even more economically enticing compared with
21 Neptune's a la carte prices. Indeed, based on the 2016 pricing, a customer would have to pay five
22 hundred dollars *more*, or \$2,699, if he or she wanted to individually purchase the cremation
23 services included in Standard Neptune Plan, and approximately sixteen hundred dollars more, or
24 \$3,764, if he or she wanted to purchase all of the services and the merchandise, again on an a la
25 carte basis.

26
27
28 ³ The Direct Cremation bundle does not include shipping the remains by priority mail.

THE
NEPTUNE SOCIETY
OF NORTHERN CALIFORNIA



Corporate Office: 1250 S Pine Island Road, Suite 600, Plantation, FL 33324

2177 Las Positas Court, Suite K, Livermore, CA 94551 • 925-454-1974 • FD 1823 490 Grand Avenue, Suite #215, Oakland, CA 94610 • 510-451-0887 • FD 1325
1645 El Camino Real, Belmont, CA 94002 • 850-592-9880 • FD 1327 5213 Garfield Avenue, Sacramento, CA 95841 • 916-338-1111 • FD 1335
2419 Grove Way, Castro Valley, CA 94545 • 510-889-7110 • FD 1397 One Lorraine Court, San Francisco, CA 94118 • 415-771-0717 • FD 1306
1261 Travis Blvd, Suite #160, Fairfield, CA 94533 • 707-422-4900 • FD 1603 1455 Santa Rosa Avenue, B2, Santa Rosa, CA 95404 • 707-525-9700 • FD 1334
1780 Grant Avenue, Novato, CA 94945 • 415-898-1868 • FD 1419 1111 West Robinhood Drive, S-81, Stockton, CA 95207 • 209-955-4090 • FD 1502
1855 Olympic Boulevard, Suite 110, Walnut Creek, CA 94596 • 925-944-5100 • FD 1354

General Price List of Pre-Need Cremation Services (Including Transportation and Relocation Plan)

FOR MORE INFORMATION ON FUNERAL, CEMETERY AND CREMATION MATTERS CONTACT:
DEPARTMENT OF CONSUMER AFFAIRS

1625 North Market Blvd., Suite S-208, Sacramento, CA 95834 (916) 574-7870

These prices are effective as of March 1, 2016. Prices are subject to change without notice.

The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. However, any funeral arrangements you select will include a charge for our basic service and overhead. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected.

Prior to drafting any contract for goods or services, the responsible party or the decedent's survivor who is handling the funeral arrangements is entitled to receive a copy of any preneed agreement in the possession of the funeral establishment that has been signed and paid for, in full or in part, by or on behalf of the decedent.

THE STANDARD NEPTUNE PLAN – \$2,170.00

NEPTUNE PRENEED DIRECT CREMATION PACKAGE

This package is sold on a preneed basis.

This package includes the basic services of the funeral director and staff, transfer of the body from the place of death within Seller's Service Area (75 mile radius of Beneficiary's Residence as listed on the Agreement) to the licensed climate controlled holding facility and to crematory facility, with use of a positive identification system, filing of death certificate, the actual process of cremation with cardboard cremation receptacle, and disposition of the cremated remains by common scattering at sea or return to person designated within the Authorization for Cremation and Disposition.

NEPTUNE MEMENTO PACKAGE

This package is sold on a retail basis and is not included on any Preneed Funeral Agreement.

This package includes wood veneer memento chest with latch, cherry finish or biodegradable urn (Autumn Leaves), cherry finish photo keepsake, 25 thank you cards and Neptune information book (delivered by express mail or courier service-signature required).

TRANSPORTATION AND RELOCATION PROTECTION PLAN – \$499.00

This plan is only offered at the time of prearrangement.

This plan protects the Beneficiary of the Preneed Funeral Agreement from incurring additional out-of-pocket expenses if death occurs while Beneficiary is traveling anywhere in the world or if Beneficiary relocates within the continental United States. (Please ask for further details.)

* No refund or credit will be issued for package sale goods or services which remain unused by the customer at the time of need.

ITEMIZED SELECTIONS

The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. However, any funeral arrangements you select will include a charge for our basic service and overhead. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected.

SERVICES (Sold on a preneed basis)

*Basic Services of Funeral Director and Staff \$780.00

This charge for our basic services and overhead will be added to the total cost of the cremation arrangements you select. This fee is already included in our charges for direct cremations. This charge includes, but is not limited to, availability of staff 24-hours a day, staff and facilities to respond to initial request for services, consultation with responsible party to determine services desired, coordinating service plans with cemetery, crematory and/or other parties involved in final disposition of the deceased, filing of local death certificate, one copy of the death certificate, confirming identification of the deceased with a positive identification system, and obtaining local permits with the appropriate department.

*Transportation within our Service Area (75 mile radius of Beneficiary's Residence as listed on the Agreement)	\$495.00
*Use of Licensed Climate Controlled Holding Facility up to 7 day	\$300.00
Use of Licensed Climate Controlled Holding Facility after 7 days (per day)	\$50.00
Supervision and staff for funeral or memorial service at our facility or location that you select	\$695.00
Supervision, staff and equipment for viewing/visitation at our facility or location that you select	\$395.00
Supervision and staff for a simple service at the place of final disposition	\$695.00
*Cremation/Crematory Fee	\$325.00
*Alternative Container (cardboard receptacle)	\$95.00
Use of Facility and Staff for Witnessing Cremation at Crematory (where available)	\$295.00
Formal Scattering of Cremated Remains at Sea (Individual charter where available)	From \$695.00
*Common Scattering of Cremated Remains at Sea	\$255.00
Delivery of Cremated Remains to Local Cemetery or Residence (35 mile radius)	\$150.00
*Packaging and Shipping Cremated Remains via Express Priority Mail (within the continental United States)	\$150.00
*Processing / Membership Fee	\$299.00

Direct Cremation \$2,199.00 – \$2,294.00

Our charge for a direct cremation (without ceremony) includes the basic services of funeral director and staff, transportation within our Service Area, use of licensed climate controlled holding facility up to 7 days, cremation and processing fee. If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are cardboard containers.

a.) Without alternative container (container provided by purchaser)	\$2,199.00
b.) With alternative container	\$2,294.00

MERCHANDISE

*Wood Veneer Memento Chest with Latch	\$403.00
*Cherry Finish or Biodegradable Urn (Autumn Leaves)	\$299.00
*Cherry Finish Photo Keepsake Urn	\$169.00
*Thank You Cards (25)	\$25.00
*Neptune Information Book	\$169.00
Keepsake Urn (miniature)	From \$89.00

MEM (Making Everlasting Memories) \$149.00

Includes: Immediate access to an online memorial that captures your life story, pictures, and voice message.

Items marked with an asterisk (*) are included in the Neptune Preneed Direct Cremation Package. If purchased separately, total cost of these items is \$3,764.00 (depending on selected disposition of cremated remains).

39. Notably missing from the General Price List reproduced above is any discussion, mention, or reference to SCI's policy of not placing into trust all of the funds received for a preneed services plan and any agreements that are collateral thereto—a policy that is contrary to California law. Rather, consumers are led to believe, by the General Price List as well as the

1 sales practices of Defendants, that other than the purported savings they obtain through the
2 purchase of the Standard Neptune Plan, there is no difference between the Standard Neptune Plan
3 and the stand-alone direct cremation services. This practice is misleading; unless consumers
4 purchase the stand-alone direct cremation services, SCI does not provide the full benefits and
5 protections of the Short Act.

6 40. As a result of SCI's pricing structure, virtually all of its customers purchase the
7 Standard Neptune Plan. Indeed, between May 2, 2014 and August 25, 2016, over 99% of the
8 customers of the Neptune Society of Northern California purchased the Standard Neptune Plan.
9 The Neptune Society of Northern California sold more than 8,500 such Plans in that period of
10 time. SCI and SCI's California Locations collectively have sold thousands of additional Standard
11 Neptune Plans since 2016, and continue to sell these Plans today.

12 SCI's Purchase Process is Designed to Avoid the Laws
13 Enacted to Protect Funeral Consumers

14 41. SCI is required by law to place 100 percent (100%) of the amount paid for a preneed
15 plan, including money received for any agreements collateral thereto, into a preneed trust and to
16 leave the funds there until the services are provided or the customer seeks a refund.

17 42. The Standard Neptune Plan is advertised and sold by SCI as a single plan. The
18 General Price List prominently advertises the Standard Neptune Plan with an all-encompassing
19 price tag, ranging from \$1,995 in 2014 to around \$2,500 as of October 2018, which covers all of
20 the services, merchandise, and fees included in the Plan. However, when a customer purchases a
21 Standard Neptune Plan—as virtually all of SCI's customers do—instead of having the customer
22 execute a single agreement for the purchase of the Plan, SCI requires the customer to execute two
23 separate, collateral agreements: (1) a Preneed Funeral Agreement, which covers the purchase of
24 the actual cremation and related services, such as services of a funeral director, use of a climate
25 controlled holding facility, and disposition of the cremated remains; and (2) a Retail Merchandise
26 Agreement, which covers the purchase of several items of merchandise, including an urn, a chest,
27 and thank you cards.

28 43. Until 2018, SCI charged customers a processing/membership fee, which was

1 reflected on a third agreement, the Financial Accommodation Addendum. As of January 2018,
2 SCI no longer charges a separate processing or membership fee, but instead has increased the
3 price of the basic services of a funeral director and staff, which is included in the Preneed Funeral
4 Agreement component of the Standard Neptune Plan.

5 44. The Preneed Funeral Agreement, Retail Merchandise Agreement, and Financial
6 Accommodation Addendum (when applicable) are collateral agreements, as that term is used in
7 the Short Act, to each other and to the Standard Neptune Plan. Among other things, all three
8 agreements relate to the same matter, arise between the same parties and are made as parts of
9 substantially one transaction.⁴ Further, only customers who sign the Retail Merchandise
10 Agreement can purchase the Standard Neptune Plan and thus receive the discounted prices of
11 cremation services afforded by that Plan. A substantial inducement for signing the Retail
12 Merchandise Agreement is obtaining these discounted prices.

13 45. SCI arbitrarily allocates the price paid by the customer for the Standard Neptune
14 Plan between the agreements. For example, in 2016, when the Standard Neptune Plan cost
15 \$2,170, the price was allocated as follows: (1) \$1,065 (49.1%) to the Retail Merchandise
16 Agreement; (2) \$806 (37.1%) to the Preneed Funeral Agreement; and (3) \$299 (13.8%) to the
17 Financial Accommodation Addendum for the processing/membership fee. Figure 1 illustrates
18 this allocation.

19
20
21
22
23
24
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26
27 ⁴ See California Civil Code section 1642: "Several contracts relating to the same matters,
28 between the same parties, and made as parts of substantially one transaction, are to be taken
together."

THE STANDARD NEPTUNE PLAN - \$2,170.00

NEPTUNE PRENEED DIRECT CREMATION PACKAGE
This package is sold on a preneed basis.

This package includes the basic services of the funeral director and staff, transfer of the body from the place of death within DeKalb's Service Area (25 mile radius of DeKalb County's Perimeter as listed on the Agreement) to the nearest funeral home, including the use of a private transportation vehicle, filing of death certificate, the actual process of cremation with cardboard cremation receptacle, and disposition of the cremated remains by private scattering at sea or return to person designated within the Authorization for Cremation and Disposition.

NEPTUNE MEMENTO PACKAGE
This package is sold on a retail basis and is not included on any Preneed Funeral Agreement.

This package includes wood veneer memento chest with latch, cherry finish or biodegradable urn (Neptune Leaves), cherry finish photo keepsake, 25 thank you cards and Neptune Information Book (delivered by express mail or another service signature request).

Processing/Membership Fee (if Applicable) \$ 299

PRENEED FUNERAL AGREEMENT

This Preneed Funeral Agreement (the Agreement) is entered into this 18 day of August, 2016, by and between Neptune Society ("Seller") and [redacted] ("Buyer") for the benefit of [redacted] ("Decedent").

Buyer is the [redacted] of Decedent.

Date of Birth: 07-16-1933 Seller's Social Security Number: [redacted]

Subject to the terms and conditions contained herein and on the Financial Acknowledgment Addendum, it is agreed that Seller will provide the services and merchandise described herein.

SERVICES:
Neptune Direct Cremation Package includes the basic services of the funeral director and staff, transfer of the body from the place of death within Seller's Service Area (25 mile radius of DeKalb County's Perimeter as listed on the Agreement) to nearest funeral home, including the use of a private transportation vehicle, filing of death certificate, nearest funeral home (NFM) cremation receptacle, the actual process of cremation, and disposition of the cremated remains by private scattering at sea or return to person designated within the Authorization for cremation.

NEPTUNE DIRECT CREMATION PACKAGE

Basic Services of Funeral Director and Staff	\$	
Transportation within Service Area (25-mile radius of DeKalb County's Perimeter as listed on the Agreement)	\$	
Use of Licensed Cremation Completed Filing Facility	\$	
Cremation Fee	\$	
Scattering of Cremated Remains at Sea or Return of Remains to designated person	\$	
Other Items Based on General Price List	\$	
TOTAL	\$	<u>1,165</u>

RETAIL MERCHANDISE AGREEMENT

Retail merchandise purchased prior to death is not considered part of a preneed funeral agreement. Payment received for the merchandise described below will remain with the Seller and is not refundable to the Buyer. This agreement is entered into by and between Neptune Society, Inc. ("Seller") and [redacted] ("Buyer") for the benefit of [redacted] ("Decedent").

MERCHANDISE: Neptune Memento Package includes wood veneer memento chest with latch, ☒ cherry finish urn or ☐ biodegradable urn, cherry finish photo keepsake, 25 thank you cards and Neptune Information Book (delivered by express mail or courier service).

Neptune Memento Package

Wood Veneer Memento Chest with Latch	\$	
Cherry Finish or Biodegradable Urn	\$	
Cherry Finish Photo Keepsake Urn	\$	
Thank You Cards (25)	\$	
Neptune Information Book	\$	
Other Items Based on General Price List	\$	
TOTAL	\$	<u>1,024</u>

Figure 1

46. By October 2018, SCI had raised the price of the Standard Plan to \$2,499. The price was allocated as follows: (1) \$1,334 (53.4%) to the Retail Merchandise Agreement; and (2) \$1,165 (47%) to the Preneed Funeral Agreement.⁵

47. Attempting to exploit what they wrongly perceive to be a loophole in the Short Act (Section 7741 of the Business and Professions Code), Defendants withhold the sums allocated to the Retail Merchandise Agreement from the preneed trusts.

48. Until May 2014, SCI also withheld from the preneed trusts the sums it allocated to the Processing/Membership Fee.

49. SCI only places in the preneed trusts the sums it allocates to the Preneed Funeral Agreement and, since May 2014, the sums allocated to the Processing/Membership Fee.

50. Over time, the sums SCI allocates to the Retail Merchandise Agreement, and thus withholds from the preneed trusts, has increased and presently amount to more than half of what customers pay for the Standard Neptune Plan. For example, as illustrated in Figure 1, in 2016,

⁵ As noted, SCI stopped charging the \$299 processing fee in 2018 and instead increased the price of its basic charge for overhead.

1 SCI allocated \$1,065 to the Retail Merchandise Agreement, which amounted to approximately 50
2 percent of the \$2,170 paid for the Standard Neptune Plan. Since then, SCI has adjusted its pricing
3 to withhold even more moneys from the preneed trusts: as of October 2018, SCI allocates around
4 \$1,334 (53.4%) of the \$2,499 Standard Neptune Plan to the Memento Package, and withholds
5 that amount from preneed trusts. In other words, while the overall prices have changed, SCI's
6 arbitrary allocation has gotten worse.

7 51. SCI's discount structure is designed to maximize the amount it withholds from the
8 preneed trusts. Again, the 2016 Standard Neptune Plan provides a helpful example. In 2016, the
9 \$1,065 that SCI allocated to the Retail Merchandise Agreement equaled 100 percent of the \$1,065
10 price shown on the then-current General Price List for the five items of merchandise, if purchased
11 separately. Similarly, the \$299 allocated to the Financial Accommodation Addendum for the
12 processing/membership fee was equal to 100 percent of the \$299 price shown on the General
13 Price List for that fee. However, the \$806 allocated to the Preneed Funeral Agreement was just
14 33.6 percent of the \$2,400 price shown on the General Price List for the preneed funeral,
15 cremation, and disposition services, if purchased separately. That is, SCI dramatically discounts
16 the services component of the Standard Neptune Plan, for which it places payments in the
17 preneed trusts, while preserving the "full value" of the inflated merchandise price, which it
18 withholds from the trust.

19 52. Since 2014, SCI has improperly withheld over \$100 million dollars from its preneed
20 trusts on the purported basis that that money was paid for merchandise.

21 SCI's Recent Modifications to its Pricing Perpetuates
22 its Unlawful Scheme to Underfund the Preneed Trusts

23 53. SCI periodically updates its General Price List to reflect current pricing. The
24 General Price List was updated in October 2018, after the People contacted SCI and inquired into
25 its unlawful business practices. SCI's recent modifications to its pricing structure do not address
26 its unlawful and deceptive scheme to underfund the legally-required preneed trusts and keep
27 consumers in the dark about how much of their money is protected through trusting.

28 54. According to the October 2018 General Price Lists, the Standard Neptune Plan now

costs \$2,499. However, Neptune offers customers coupons to save several hundred dollars off the Plan, meaning the effective price of the Standard Neptune Plan is lower. These discount coupons demonstrate SCI's persistent goal of driving consumers to purchase the Standard Neptune Plan.

55. The October 2018 General Price List indicates that SCI has modified its pricing structure so that it no longer includes the \$299 processing/membership fee in the Standard Neptune Plan.⁶ Instead, SCI increased the price of the Basic Services of Funeral Director and Staff by \$170 to approximately \$950, and no longer includes scattering at sea, which it had previously valued at \$255.

56. If purchased separately, the services included in the Standard Neptune Plan cost \$2,315, according to the October 2018 General Price List. This is more than the price of the Standard Neptune Plan (which also includes merchandise), assuming the customer uses the widely available discount coupon. Therefore, because Neptune misleads customers into believing their money is still protected under the Standard Neptune Plan, few, if any, consumers choose to purchase SCI's preneed services separately.

57. According to the October 2018 General Price List, the price of the merchandise included in the Standard Neptune Plan, if purchased separately, is \$1,334.

58. As of October 2018, SCI withholds the approximately \$1,334 it attributes to merchandise from the preneed trusts, which amounts to over 50% of the price of the Standard Neptune Plan. Conversely, it only places into trust around \$1,165, which is only around half the cost of the cremation services, if purchased separately.

59. Simply put, although SCI's prices have changed on the margins over the last five years, its unlawful trusting scheme remains fundamentally the same. SCI continues today to incentivize customers to select the Standard Neptune Plan, to artificially allocate over half of customers' payment to merchandise, and to unlawfully withhold the money allocated to merchandise from California's required preneed trusts.

⁶ The prior General Price List, which was updated in November 2017, after the People initiated the investigation, called the \$299 fee a "Processing Fee" rather than a "Processing/Membership Fee."

SCI's Unlawful Conduct is Made Worse
By its Deceptive, Misleading, and Unfair Marketing Practices

60. In addition to violating the Short Act's trusting requirements, SCI's marketing practices, including but not limited to the General Price List, are likely to deceive consumers. Most importantly, SCI does not explain up front that the Standard Neptune Plan consists of at least two separate agreements, and that only the amounts it arbitrarily and unilaterally allocates to the Preneed Funeral Agreement (i.e., the cremation services) are placed in trust.

61. A reasonable consumer is likely to be deceived by SCI's marketing practices as she cannot make a reasoned decision as to which SCI plan or products to purchase without knowing, well in advance of purchase, that: (1) SCI unilaterally allocates the overall cost of the Standard Neptune Plan among each of the two or three separate agreements; (2) SCI allocates approximately 50 percent (50%) or more of the total amount paid for the Standard Neptune Plan to the merchandise agreement; (3) SCI withholds 100 percent (100%) of the amount allocated to the merchandise agreement from the preneed trust; (4) until May 2014, SCI withheld 100 percent (100%) of the amount allocated to the processing/membership fee agreement from the preneed trust; and (5) the practice of splitting the Plan into separate agreements will significantly reduce the amount of a refund a consumer can expect to receive from the preneed trust if, and when, a refund is requested or if SCI is no longer in business when the services are needed.

62. SCI's General Price List is also deceptive because a reasonable consumer would want to know, prior to being presented with the agreements, that returning the merchandise will operate to cancel not only the Retail Merchandise Agreement, but also the Preneed Funeral Agreement. In other words, the collateral nature of SCI's agreements ensures that purchasers cannot return the merchandise and keep services provided under the Preneed Funeral Agreement.

63. These deceptive practices are not rectified by any marketing or other materials presented to consumers before they receive their final contracts. Rather, SCI's sales practices and marketing materials further deceive consumers by leading them to believe that the money they provide SCI is safely placed in trust, and that they are protected in the event of a change in either their or SCI's circumstances.

1 64. In fact, SCI markets its preneed plan as one that actively protects the consumer's
2 payment. For example, SCI distributed, and continues to distribute, a pamphlet to consumers
3 entitled "Why Cremation?" The pamphlet advertises that one of the benefits of purchasing
4 cremation on a preneed basis is that "[y]our pre-paid plan is protected" and "[y]our monies are
5 placed into a state-required trust fund, held and invested for future need, in accordance with state
6 law."

7 65. In reality, fifty percent (50%) or less of the money consumers pay for the Standard
8 Neptune Plan is placed in a trust. Accordingly, SCI's representations that "[y]our prepaid plan is
9 protected" and that "[y]our monies are placed into a state-required trust fund" are false, deceptive,
10 and misleading.

11 66. The first time most consumers receive any documentation or information about
12 SCI's unlawful trusting scheme is when they are presented with two pre-completed collateral
13 agreements: (1) the "Retail Merchandise Agreement," which contains the inflated full cost of the
14 merchandise and (2) the "Preneed Funeral Agreement," which shows the significantly discounted
15 price of the cremation package. Among its various disclosures, the Retail Merchandise
16 Agreement simply notes, but does not highlight in any meaningful way, that funds paid toward
17 Retail Merchandise Agreement are not held in trust. Even if this arrangement were legal, which it
18 is not, disclosure made only at the time the consumer is presented with the completed agreements
19 is too late. The agreements themselves cannot counter the deceptive practices which led the
20 customer to purchase the Standard Neptune Plan in the first place. Further, whether or not a
21 particularly astute consumer might at this point understand that not all the money she has paid is
22 being placed in trust, most reasonable consumers would not.

23 SCI's Inflated Merchandise Pricing Furthers SCI's Unlawful,
24 Deceptive, and Unfair Trusting Scheme

25 67. SCI artificially inflates the price of its merchandise in order to maximize the amount
26 of money it withholds from the trust, which then maximizes the amount of money it captures as
27 operating business income.

28 68. As of October 2018, the Standard Neptune Plan included the following merchandise

1 items: (1) a 12-inch long fiberboard chest with wood veneer and cardboard insert, to which SCI
2 assigned a price of \$442; (2) a nine-inch long fiberboard urn, to which SCI assigned a price of
3 \$350; (3) a five-inch tall miniature fiberboard picture frame urn with a plastic frame, to which
4 SCI assigned a price of \$199; (4) a pack of 25 lightweight white paper thank you cards,
5 measuring 5 inches by three inches, to which SCI assigned a price of \$25; (5) a pamphlet with
6 generic information about cremation, to which SCI assigned a price of \$169; and (6) access to an
7 “online memorial,” to which SCI assigned a price of \$149.

8 69. Altogether, SCI prices these six items of merchandise at \$1,334. However, the
9 combined fair-market value of the five items of merchandise included in the Retail Merchandise
10 Agreement is a fraction of that cost.

11 SCI Over-Allocates Half of the Value of the Standard Neptune Plan to Merchandise

12 70. SCI’s efforts to shift funds away from the preneed trust do not end with its practice
13 of overvaluing the prices of its merchandise. Since 2014, this merchandise, even at its inflated
14 value, makes up only 24% to 39% of the price of all of the services, fees, and merchandise
15 included in the Standard Neptune Plan, if those services, fees and merchandise were purchased
16 separately.

17 71. However, rather than allocate 24% to 39% of the price of the Standard Neptune Plan
18 to the merchandise, and withhold that amount from the preneed trust, SCI has artificially
19 allocated approximately 50% or more of the price of the Standard Neptune Plan to the
20 merchandise, and withheld the corresponding amount of money from the preneed trust. This
21 results in a significant reduction in in the amount of funds placed into trust.

22 SCI Altered its Former Business Model for the Purpose of
23 Significantly Reducing the Amount it Deposits Into Preneed Trusts

24 72. The history of SCI’s pricing practices reveals its effort to shift funds out of trust and
25 into its own pockets.

26 73. SCI purchased many of SCI’s California Locations in 2013 and 2014. Prior to the
27 purchase, SCI’s California Locations did not sell Standard Neptune Plans that included
28

1 merchandise and so did not withhold a portion of the Plan from the preneed trust on that basis.
2 Within months of the purchase, however, SCI changed the structure of the Standard Neptune
3 Plans to include merchandise and thereafter started withholding from the preneed trusts
4 significant portions of the proceeds from the Standard Neptune Plans.

5 74. For example, in March 2014, the Standard Neptune Plan cost \$1,795 and consisted
6 solely of preneed services and fees; it did not include merchandise. SCI allocated \$1,496 of the
7 \$1,795 paid for the Standard Neptune Plan to the services described in its Preneed Funeral
8 Agreement and deposited that entire amount into the preneed trust. SCI attributed the remaining
9 \$299 to a “processing/membership fee,” and did not deposit that amount into the preneed trust.

10 75. The processing/membership fee was charged to cover SCI’s administrative costs
11 and, pursuant to Business and Professions Code section 7735, should have been placed into the
12 preneed trust.

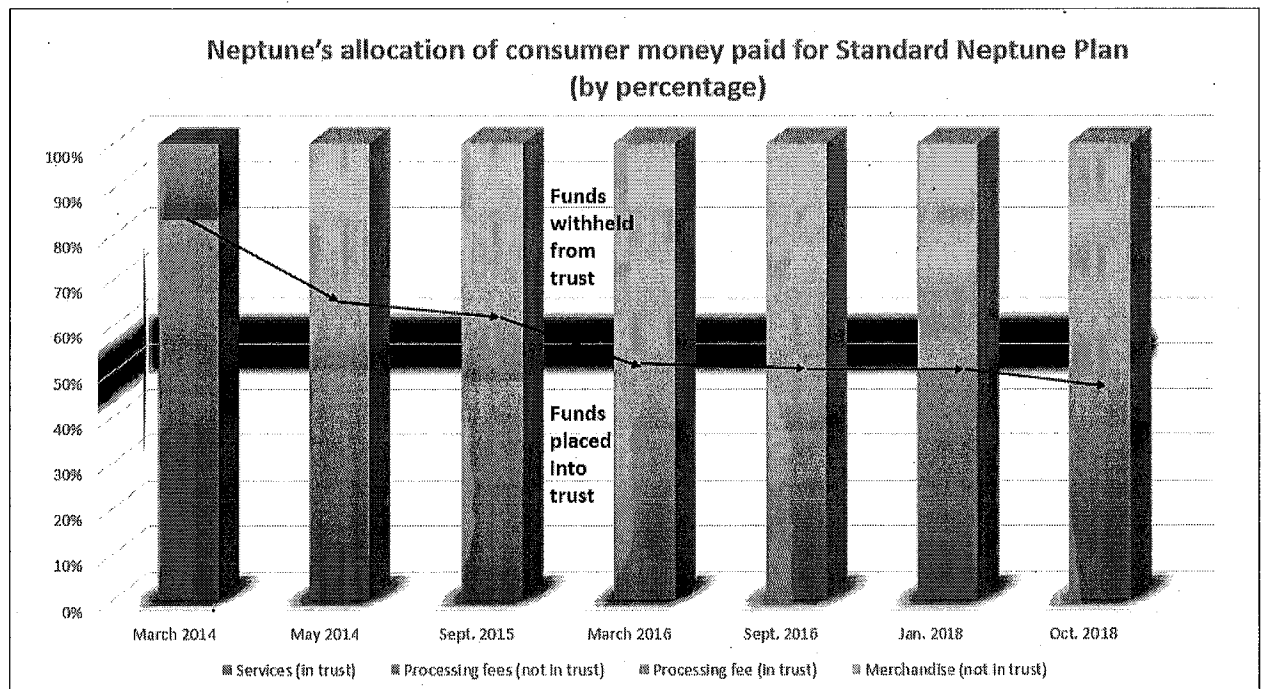
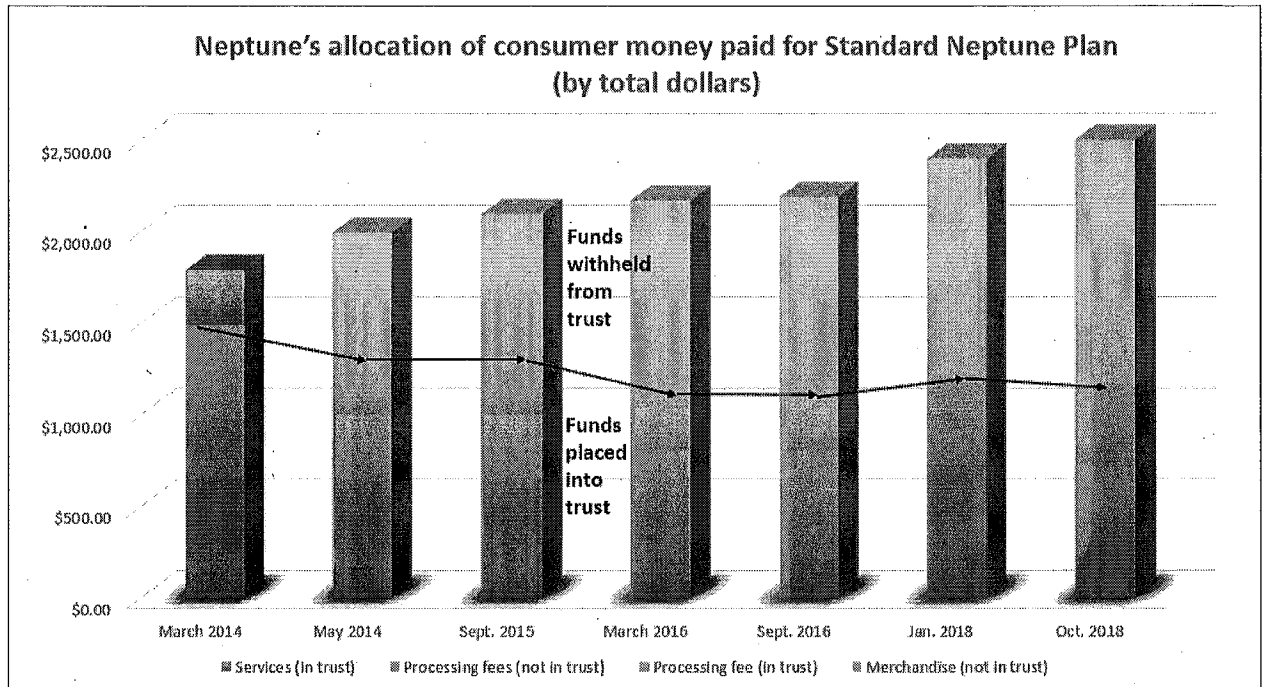
13 76. In May 2014, SCI began depositing the \$299 “processing/membership fees” into the
14 preneed trust, as required by Business and Professions Code section 7735. At the same time, SCI
15 added merchandise to the Standard Neptune Plan, raised the price of the Standard Neptune Plan
16 by \$200 to \$1,995, and made the Retail Merchandise Agreement a required component of the
17 Standard Neptune Plan. SCI allocated \$695 to the merchandise and withheld that entire amount
18 (\$695) from the preneed trust. In short, even though it had increased the cost of its Standard
19 Neptune Plan by \$200, SCI decreased the amount of funds it placed into preneed trust by almost
20 that same amount.

21 77. SCI’s unlawful trusting scheme has only grown more extreme over time. From May
22 2014 to October 2018, SCI increased the amount allocated to merchandise from an already-
23 inflated \$695 to \$1,334, a 92 percent increase.⁷ The actual merchandise included in the package
24 remained substantially the same during that time.

25 78. The charts below were created using SCI’s General Price Lists. They show SCI
26

27 ⁷ According to the Bureau of Labor Statistics, adjusted for inflation, items worth \$695 in
28 March 2014 would be worth only \$743 in October 2018, an increase of 4.9%.
(<https://data.bls.gov/cgi-bin/cpicalc.pl?cost1=695&year1=201403&year2=201801>)

1 allocating more money to merchandise and less money to services, and therefore placing less
2 money in preneed trusts, over time.



This Is Not the First Time SCI Engaged in a Scheme to Underfund Preneed Trusts

79. In 2008, Neptune Management Corporation, d/b/a The Neptune Society (“Neptune of Colorado”), which is now a wholly-owned subsidiary of SCI, was charged by the Colorado Division of Insurance with engaging “in a plan and practice to avoid fully funding preneed trust accounts, thereby thwarting the General Assembly’s intent of consumer protection.” The business practice at issue in Colorado was functionally identical to the business practice at issue in this Complaint. Similar to Section 7741 of the Business and Professions Code, Colorado law provided that money received for merchandise delivered at the time of contracting did not need to be placed in trust.

80. In 2009, Neptune of Colorado and the Colorado Division of Insurance entered into a Stipulation for Entry of Final Agency Order to resolve the charges. Pursuant to the Final Agency Order, Neptune of Colorado was required to: (1) place \$1.5 million in preneed trusts to account for money paid by consumers which it had attributed to merchandise and withheld from the preneed trusts; (2) refrain from allocating more than the manufacturer’s suggested retail price to the price of merchandise in a package⁸; and (3) pay a civil penalty of \$1.2 million.

81. Five years after SCI was forced to stop its unlawful business practice in Colorado, it instituted a functionally identical business practice in California.

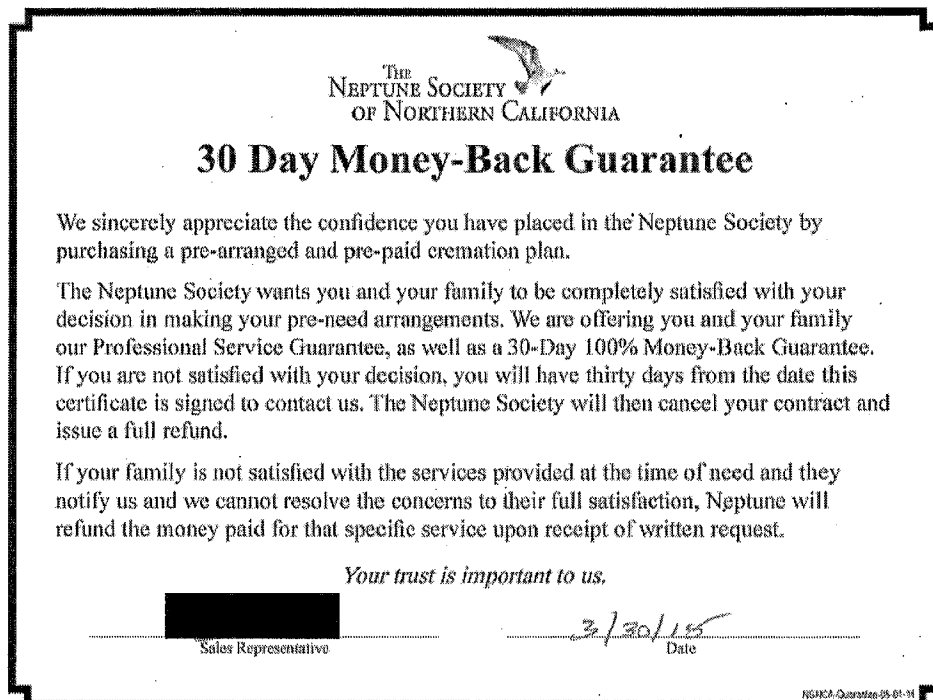
82. The San Francisco District Attorney first contacted SCI about its conduct in August 2016. Since then, SCI has refused to cease its unlawful business practices.

**SCI’S ADVERTISEMENT OF A PURPORTED 30-DAY MONEY BACK GUARANTEE IS
UNFAIR AND DECEPTIVE**

83. Pursuant to Business and Professions Code section 7737, preneed funeral agreements must state that, at any time before the funeral establishment has provided the services and merchandise provided for in the agreement, consumers may revoke the agreement by demanding and receiving the return of monies placed into a preneed trust.

⁸ Because the merchandise agreement here is collateral to the preneed agreement, none of the putative value of the merchandise may be withheld from the preneed trust in California.

1 84. Until the initiation of the People's investigation into SCI's misrepresentations, SCI
2 provided consumers with a certificate labeled, "30 Day Money-back Guarantee," which states, in
3 relevant part: "The Neptune Society wants you and your family to be completely satisfied with
4 your decision in making your preneed arrangements.... If you are not satisfied with your decision,
5 you will have thirty days from the date this certificate is signed to contact us. The Neptune
6 Society will then cancel your contract and issue a full refund."



20 85. The certificate did not state that consumers may also cancel their preneed services
21 plan, and receive a full refund, at any time after 30 days, so long as the services have not been
22 provided. Instead, it essentially warns customers that they have only 30 days to contact SCI if
23 they want to obtain a refund, even though that is false.

24 86. In addition, SCI's Preneed Funeral Agreement states:

25 This Agreement may be cancelled within thirty (30) days of the date of acceptance of
26 this Agreement, and a full refund of all monies paid will be made to Purchaser.

27 87. SCI's representations regarding its purported 30 Day Money-Back Guarantee violate
28 section 7737 and are misleading, as they have the capacity to deceive consumers into believing

1 that preneed cremation services purchased from SCI can only be cancelled within 30 days of
2 acceptance of the preneed agreement.

3 88. Based on these representations, SCI's customers may be effectively dissuaded from
4 even attempting to seek a refund after the 30-day period. The representation also gives SCI the
5 opportunity to refuse to honor a request for cancellation after expiration of the 30-day period by
6 pointing the customer to the language of the refund policy.

7 **SCI'S INSTALLMENT CONTRACTS VIOLATE THE UNRUH ACT AND THE CLRA**

8 89. SCI sells a significant number of its Standard Neptune Plans through an installment
9 payment plan, which SCI offers through what it calls a Financial Accommodation Addendum
10 ("FAA") requiring four or more payments and/or charging consumers interest. These payment
11 plans are subject to the provisions of the Unruh Act, Civil Code section 1801 et seq. However,
12 they violate key provisions of this law.

13 90. First, SCI's agreements, in particular its FAAs, have omitted mandatory disclosures
14 including:

- 15 • a statement in 12-point bold type that the FAA is a "Retail Installment Contract";
- 16 • an advisement that the consumer has a right to completely filled-in copy of the
17 agreement;
- 18 • a full explanation of the consumer's prepayment rights;
- 19 • the address of the buyer and the place of business of the seller;

20 These omissions violates the Unruh Act, Civil Code sections 1803.2, 1803.3.

21 91. Until recently, SCI's installment contracts purported to require consumers to
22 adjudicate their disputes with SCI in Broward County, Florida. That clause violated the Unruh
23 Act's requirement that holders of an installment contract have the right to commence an action in
24 the county in which the contract was signed by the buyer, the county in which the buyer resides at
25 the commencement of the action, the county in which the buyer resided at the time that the
26 contract was entered into, or in the county in which the goods purchased pursuant to the contract
27 have been so affixed to real property as to become a part of such real property. (Civil Code
28 section 1812.10.) Further, sellers of installment contracts are prohibited from asserting otherwise

1 in their contracts. (Civil Code, section 1804.1, subd. (i).) Thus, each installment contracted
2 violated both the Unruh Act and the Consumer Legal Remedies Act (CLRA) which prohibits SCI
3 from representing that their installment contracts impose an obligation that is prohibited by law.
4 (Civil Code, section 1770, subd. (a)(14).)

5 92. SCI's installment contracts have also contained a clause that purportedly allowed
6 SCI to accelerate the payments due under the contract in the event that the intended beneficiary
7 died before the completion of the payments. This acceleration clause does not depend upon an
8 actual default by the intended beneficiary or his or her estate, nor does it provide for the estate to
9 continue making scheduled payments. The presence of such a provision is prohibited by the
10 Unruh Act and the CLRA. (Civil Code, sections 1804.1, subd. (b) and 1770, subd. (a)(14).) In
11 addition, SCI has in fact sought and collected such accelerated payments when intended
12 beneficiaries of the preneed contract died prior to the completion of the payments due under
13 SCI's installment contract. This practice is particularly pernicious in the context of a contract for
14 funeral services.

15 **THE DISCUSSION OF VETERANS BENEFITS IN SCI'S MARKETING MATERIALS IS UNLAWFUL**

16 93. One of SCI's primary marketing tools are its free seminars, generally accompanied
17 by a free meal, at which it touts its preneed plans and, in particular, its Standard Neptune Plan.
18 These seminars are advertised by mailers such as this one:

Attend
a Seminar
For Your Chance to
**WIN A FREE
7-DAY CRUISE FOR TWO**

THE
NEPTUNE SOCIETY
OF NORTHERN CALIFORNIA



CONSIDERING CREMATION? JOIN US FOR A

FREE LUNCH
& INFORMATIONAL SEMINAR
ON THE BENEFITS OF PREPLANNING YOUR CREMATION

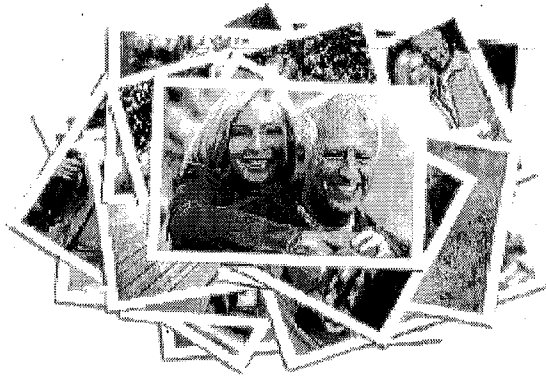
LUIGI ITALIAN RESTAURANT

950 Linda Mar Boulevard, Pacifica, CA 94044

Wednesday, April 18th at 11:30 AM

Thursday, April 19th at 11:30 AM

Friday, April 20th at 11:30 AM



WE'LL DISCUSS:

- *The Benefits of Preplanning*
- *Affordable Options & Savings*
- *Veteran Benefits*
- *Travel & Relocation Protection Plan*

CALL TODAY TO RSVP 650.772.4902

RESERVATION REQUIRED. LIMITED SEATING AVAILABLE. FIRST TIME ADULT ATTENDEES INTERESTED IN CREMATION.

www.Neptune-Society.com

*NO PURCHASE NECESSARY. Purchasing does not improve your chances of winning. Must be a legal resident of AZ, CA, FL, GA, IL, MI, MN, NC, RI, NM, NY, OH, OR, TN, TX, WA, or WI, age 21 or older. Void outside the states listed, in Puerto Rico, Guam, the U.S. Virgin Islands, outside the U.S. and where prohibited by law. Sweepstakes begins on 04/02/18 and ends on 06/30/18. For how to enter without attending a seminar, entry details and Official Rules, visit www.seidirectcruisegames.com. Sponsor: SCT Direct Inc., 1350 South Pine Island Road, Plantation, FL 33324. To have your name removed from future mailings, send a 3"x5" card including your name and address to SCT Direct Cruise Sweepstakes, 1250 S Pine Island Road, Ste 200, Plantation, FL 33324.

13

FD 1927

BEL

94. These mailers expressly state that among the topics to be discussed are "Veteran Benefits." They are therefore governed by the provisions of Civil Code section 1770, subd.

(a)(25), which requires the sponsor to make certain disclosures regarding SCI and the event, both in its advertising materials and at the seminars themselves. These disclosures, which are intended to help veterans avoid predatory practices, are not on the advertisements and are not made at the seminars.

**SCI MISREPRESENTS THE OWNERSHIP AND STAFFING
OF THE CREMATORIES SCI'S CALIFORNIA LOCATIONS USE**

95. From at least 2015 through mid to late 2017, SCI included the following representation on the website of the Neptune Society of Northern California: "We own our crematory equipment and it is always operated by our own highly trained professionals."



Neptune Society of Northern California

The Neptune Society of Northern California has provided a simple and affordable option for more than 125,000 Californians who prefer cremation as the dignified and ecologically responsible alternative to traditional final arrangements. We own our crematory equipment and it is always operated by our own highly trained professionals.

96. Similarly, SCI's California Locations doing business as The Neptune Society of Northern California provide prospective customers a flyer entitled "Why Use Neptune Society of Northern California" which states "We own and operate our own crematory with a professional staff of employees"

97. SCI prominently placed these statements in its advertising in order to assure consumers that the cremation process, whether for themselves or for their loved ones, will be handled professionally and with dignity and care by SCI.

98. In fact, Defendant S.E. Combined Services of California, Inc., doing business as the Neptune Society of Northern California, does not own any of the crematories that it has used since 2014.

99. In mid to late 2017, after the People contacted SCI about these misrepresentations, SCI modified the website of the Neptune Society of Northern California to state that "All cremations are performed by highly trained professionals at crematories owned and operated by us or our affiliates." However, SCI is still providing prospective customers the flyer discussed above.

1 **TOLLING OF STATUTES OF LIMITATIONS**

2 100. Plaintiff has entered into a tolling agreement with SCI preserving Plaintiff's right to
3 pursue violations beyond the typical limitations period provided by statute. The parties have
4 agreed that the time period from September 18, 2017 through and including December 31, 2019
5 ("Tolled Dates"), shall be tolled, and that any claim or cause of action which would expire or
6 otherwise cease to be actionable shall not expire and that the Tolled Dates will not be included in
7 computing the time limits created by any statutory limitation period for pursuing causes of action
8 against SCI.

9 **FIRST CAUSE OF ACTION**

10 Business and Professions Code section 17500, *et seq.*
 (Untrue and Misleading Statements)

11 101. Plaintiff, the People of the State of California, restates and incorporates paragraphs 1
12 through 100 as though fully set forth herein.

13 102. Beginning at an exact date unknown to the People, but occurring within the statute
14 of limitations of this action, and continuing to the present, Defendants, with the intent to perform
15 services, or to induce members of the public to enter into obligations relation thereto, made or
16 disseminated or cause to be made or disseminated before the public in the State of California
17 statements concerning such services, or other matters of fact connected with the performance
18 thereof, which were untrue or misleading, and which defendants knew or reasonably should have
19 known were untrue or misleading and likely to deceive members of the public, in violation of
20 Business and Professions Code section 17500 *et seq.*

21 103. Such statements include all the untrue or misleading statements alleged above,
22 including but not limited to:

23 a. Defendants provide consumers marketing materials that do not explain how
24 Defendants arbitrarily and unilaterally allocate funds received for the Standard Neptune Plan such
25 that less than half of the funds are placed in trust.

26 b. The marketing materials do not explain that Defendants' allocation of funds received
27 for the Standard Neptune Plan means that less than half of the funds are available for refund at
28 any time.

1 c. Defendants provide consumers with marketing brochures that falsely inform and
2 mislead them into believing that their funds are placed in trust, when, in fact, only about half of
3 the money received from the overwhelming majority of Defendants' California customers is ever
4 placed into the legislatively required trusts;

5 d. Defendants provided consumers with a putative "30-Day Money Back Guarantee"
6 and other documents that would deceive a reasonable consumer as to his or her right to a refund
7 any time prior to utilizing Defendants' services; and

8 e. Defendants falsely informed consumers that it owned its own crematory equipment.

9 10 **SECOND CAUSE OF ACTION**

Business and Professions Code section 17200, *et seq.*
(Unfair Competition and Unlawful Business Practices)

11 104. Plaintiff, the People of the State of California, restates and incorporates paragraphs 1
12 through 103 as though fully set forth herein.

13 105. Beginning around May 2014, and continuing to the present, Defendants engaged in
14 acts of unfair competition and in unfair, deceptive or unlawful business practices within the
15 meaning of Business and Professions Code section 17200, *et seq.*, including but not limited to the
16 following acts:

17 a. Defendants designed their business model to artificially allocate approximately half
18 of the funds consumers pay for the Standard Neptune Plan to merchandise of little value,
19 specifically as a vehicle for its improper and unlawful withholding of that amount of money from
20 the legally-required preneed trusts, in a manner that violates the Short Act (Civ. Code § 7735 *et*
21 *seq.*), constitutes an unfair business practice by thwarting the protections provided to consumers
22 by California law governing funeral service providers, and amounts to fraudulent conduct within
23 the meaning of the Unfair Competition Law;

24 b. Defendants violated the provisions of the Unruh Act (Civ. Code § 1801 *et seq.*) by
25 providing consumers with installment contracts that failed to make disclosures mandated by the
26 Act and which contained provisions prohibited by the Act;
27
28

1 c. Defendants violated the provisions of the Consumer Legal Remedies Act (Civ. Code
2 § 1770) by issuing contracts which purported to impose obligations prohibited as a matter of law
3 and by advertising seminars that purported to discuss “Veterans’ Benefits” without making the
4 disclosures mandated by the CLRA both in the advertisements and at the seminars; and

5 d. Defendants violated the False Advertising Law (Bus. & Prof. Code § 17500 et seq.)
6 as described above.

7
8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for judgment as follows:

10 1. That pursuant to Business and Professions Code sections 17203 and 17535, and
11 the Court’s inherent equitable powers, Defendants, their successors and/or the assigns, their
12 directors, officers, employees, agents, independent contractors, partners, associates and
13 representatives, and all persons, corporations and other entities acting in concert or in
14 participation with Defendants, be permanently restrained and enjoined from:

15 a. Making, disseminating, or causing to be made or disseminated, any misleading, false
16 or deceptive statements in violation of section 17500 of the Business and Professions
17 Code, including, but not limited to, the false or misleading statements alleged in this
18 complaint; and

19 b. Engaging in any acts of unfair competition, in violation of section 17200 of the
20 Business and Professions Code, including but not limited to business acts and
21 practices alleged in this complaint.

22 2. That pursuant to Business and Professions Code sections 17203 and 17535, and
23 the Court’s inherent equitable powers, Defendants, their successors and/or assigns, their directors,
24 officers, employees, agents, independent contractors, partners, associates and representatives of
25 each of them, and all persons, corporations and other entities acting in concert or in participation
26 with Defendants, be required to place into a preneed trust for the benefit of the purchasers an
27 amount equal to the difference between the total amount collected by Defendants through the sale
28 of the Standard Neptune Package and the amount actually placed in trust from those sales.

1 3. That pursuant to Business and Professions Code section 17536, Defendants be
2 ordered to pay a civil penalty of up to two thousand five hundred dollars (\$2,500) for each
3 violation of Business and Profession Code section 17500, according to proof.

4 4. That pursuant to Business and Professions Code section 17206, Defendants be
5 ordered to pay a civil penalty of up to two thousand five hundred dollars (\$2,500) for each
6 violation of Business and Profession Code section 17200, according to proof.

7 5. That pursuant to Business and Professions Code sections 17203 and 17535 and the
8 Court's inherent equitable power, Defendants be ordered to restore to every person in interest all
9 money and property which was acquired by Defendants through their unlawful conduct,
10 according to proof.

11 6. That Plaintiff be awarded its costs of suit.

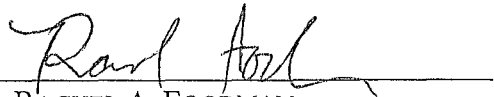
12 7. That Plaintiff be given such other and further relief as the nature of this case may
13 require and this Court deems proper to fully and successfully dissipate the effect of the unlawful
14 business practices and false or misleading representations contained herein.

15
16
17 DATED: December 2, 2019

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Senior Assistant Attorney General
MICHAEL E. ELISOFON
Supervising Deputy Attorney General

21 *Attorney for Plaintiff, the People of the State of*
22 *California, and on behalf of the other attorneys*
23 *appearing in this action*

24 BY: _____


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