

# Connecticut Jewish Ledger

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CONVERSATION WITH...WILLIAM RUBENSTEIN

## Attorney plays role in restoring competition to funeral industry

By Tracy Sullivan

*The New York law firm of Axinn, Veltrop & Harkrider LLP, working with attorneys from its Hartford office, recently played a critical role in helping to restore competition to the Jewish funeral industry in New York City.*

*One of those attorneys is William R. Rubenstein of West Hartford. He assisted the New York State Attorney General's Office in filing an anti-trust complaint against Service Corporation International (SCI), based in Houston, Texas.*

*SCI, the largest funeral service provider worldwide, owns four of the five Jewish funeral homes in Manhattan and seven of the 16 in Brooklyn. The New York state attorney general alleged that SCI had achieved an unlawful monopoly in the market for Jewish funeral services in New York City, and requested a jury trial.*

*About a month ago, an out-of-court settlement was reached between the two parties.*

*Rubenstein, whose expertise is in the areas of antitrust and trade regulation, oversaw the investigatory effort with the firm's senior partner, Stephen M. Axinn.*

*Before joining Axinn, Veltrop & Harkrider in August 1997, Rubenstein was an assistant attorney general in the antitrust division in Connecticut for 11 years. Prior to that, he spent four years as a trial attorney in the Federal Trade Commission's Bureau of Competition in Washington, D.C.*

*The Ledger sat down with Rubenstein at his firm's Hartford office at 90 Statehouse Square to discuss the SCI case.*

**Q: How did your law firm become involved in the New York State Attorney General's complaint against SCI?**

**A:** SCI's domination of the Jewish funeral industry in New York became apparent to members of our law firm personally. Our senior partner, Stephen Axinn, experienced this when arranging for his father-in-law's funeral. To avoid



Atty. William Rubenstein

paying SCI's prices, he went to what he thought was a competing funeral service provider, but the home was really owned by SCI. Because Jewish law requires that a burial takes place within a day of a person's death, families don't have the time to look around for the lowest price.

It became increasingly apparent to us that SCI was dominating the industry. Coincidentally, the New York State Attorney General's Office began an investigation into SCI. The New York State Attorney General's Office was looking for someone to assist them. We're very well-known, well-respected anti-trust litigators.

**Q: How does the settlement affect the Jewish funeral home industry?**

**A:** This is the first case ever where Jewish funeral services were seen as a separate discrete marketplace. One of the messages of this case is that a domination of a market can take place in a discrete religious segment.

In the market in New York, the settlement provides an opportunity for other businesses to enter the market. In Manhattan, SCI owns four of the five remaining Jewish funeral homes, which conducts 90 percent of the Jewish funerals in Manhattan. The consent decree

requires SCI to sell off a funeral home in Manhattan, the Plaza Memorial Chapel. The divesting of Plaza will restore competition to the level it had been.

In Brooklyn, SCI owns nearly half of the Jewish funeral homes. Now, SCI must sell the Kirschenbaum Brothers Funeral Home and Garlick Funeral Home in Brooklyn.

**Q: Why did SCI's attempt to enter the Jewish funeral services market in Hartford fail?**

**A:** In the Hartford area, there's a dominant funeral provider, and SCI, the largest funeral service provider in the world with 4,000 funeral homes worldwide, attempted to enter the Jewish funeral market there and opened Beth Olam Funeral Home.

Even a firm as experienced as SCI in the business was not able to succeed against a dominant provider. Beth Olam closed its doors.

In New York City, SCI gained its market dominance not by starting new funeral homes but by buying existing ones...When SCI buys a funeral home, it goes out of its way to hide its ownership. They hire the prior owners as employers. They keep the name the same, and the reputation remains. They create this illusion of markets when they are a dominant provider.

**Q: What happens now that the settlement has been reached?**

**A:** The whole nature of the market system is that competition drives the lowest possible cost. When anti-trust laws are enforced, competition is restored. They have nine months to sell off the various funeral homes. That process is under way. The attorney general must approve the purchaser. A lot of controls are in place in the consent decree.

The consent decree is a positive benefit to the citizens of New York. We are proud to be a part of that. Consumers will benefit. ■