

SCDCA v. Internal Revenue Service; Community Funeral Home, f/k/a Community Funeral Home, Inc., f/k/a James Community Funeral Home; and Leroy James and Rose James Individually

Case No. 3:17-1729-JFA

Community Funeral Home (“Community”) was a funeral home in Sumter, South Carolina, whose assets were seized by the Internal Revenue Service (“IRS”) in September 2016 after Community failed to pay federal taxes. According to the records of the South Carolina Department of Labor, Licensing, and Regulation (“LLR”), Leroy James was the sole owner and proprietor of Community Funeral Home at the time of the IRS’s seizure of Community’s assets in September 2016, and Rose James was an additional owner in 2008.

On February 24, 2017, the South Carolina Department of Consumer Affairs (“the Department”) was informed by LLR that Community was shut down by the IRS and its assets seized for failure to pay federal taxes. The Department also learned from files and receipt books received from LLR dated 1998 through 2004 that Community was selling preneed funeral contracts without a preneed funeral license. From those files, receipt books, and further contracts provided by South Carolina consumers, the Department identified at least fifty-five (55) preneed funeral contracts and the potential total amount of funds that should have been in trust was at least \$162,164.80.

The Department filed a Motion for a Temporary Restraining Order (“TRO”) and Motion for a Preliminary Injunction on June 30, 2017, to halt the IRS’s refunding of excess auction proceeds to Community after real estate and personal property of Community’s was seized and sold by the IRS at an auction on March 15, 2017. The Court granted the TRO on July 12, 2017, and granted the Preliminary Injunction on July 25, 2017. Thus, the IRS was prohibited from disbursing any excess funds it obtained from liquidizing the assets of defendant Community and was to remain in possession of such excess funds until the Department’s claims against Community had been adjudicated pursuant to the laws of South Carolina.

In March 2019, the Department met with the Jameses to discuss Community’s obligations to consumers and the State in order to resolve the matter. The parties entered into a Consent Order, issued by the Court on April 15, 2019, whereby the parties agreed that all \$72,535.42 in excess proceeds held by the IRS were to be released to the Department as a full and complete satisfaction of all financial requirements imposed by the Department’s Administrative Order. As a result of the settlement, the Department was able to issue refunds to all identified South Carolina consumers who provided funds to Community but had not received funeral services.