

## Why Crematory Due Diligence

William Sucharski

Cremation procedures pose the largest source of risk exposure and liability in the funeral service industry. When using a third-party crematory, funeral homes have a legally binding responsibility to the family to ensure that the cremation will be carried out in a legal, professional, and ethical manner.

Legal precedent from recent lawsuits in Georgia and New Hampshire point out that ***“funeral directors can be held liable for the actions (or inactions) of their independent third-party crematory contractors if the funeral directors have not practiced due diligence”***.

***Robert Smalley***

(Lead counsel for the plaintiff’s class-action lawsuit against the Tri-State Crematory and the funeral homes that recommended and used it.)

Tri-State’s insurer paid \$80 million and the 56 funeral homes that used Tri-State paid out over \$36 million in damages last year on this case. One firm paid over \$8 million. Legal fees ran \$50,000-\$200,000 per firm. Some of the firms had no liability insurance.

Our latest industry scandal is in Seabrook, New Hampshire. At Bayview Crematory, on Feb. 23, 2005, authorities discovered:

- 12 sets of unlabeled, unidentified urns filled with cremated human remains.
- A commingled cremation in progress. (1 adult and a 23 month fetus in the same cremation unit at the same time)
- The decomposing body of a 50 year old woman left in a broken refrigeration unit for 7-10 days.
- A dumpster outside the crematory filled with charred pacemakers, hip replacements, prosthetics, and casket hardware.
- Incomplete and forged documentation regarding cremation permits and authorizations.

A 10-count class-action lawsuit (*over 4000 families have had loved ones cremated at Bayview since it opened in 1999*) was filed in Boston U.S. District Court on September 21, 2005 against Bayview Crematory, its owners, and the funeral homes and cremation societies that used Bayview.

**Statements from the lawsuit claiming funeral home liability include:**

1 - *“Motivated by greed, the funeral home defendants utilized the services of the ‘low-cost’ Bayview Crematory, which was ‘well-known throughout the industry’ as a ‘shoddy’ operator.”*

2 - *“The funeral home defendants, in order to either save the small sum of approximately \$75 per deceased body, entrusted the remains of the loved ones of plaintiffs and other class members to Bayview Crematory even though that meant that the funeral home defendants had to turn over control of bodies under their charge to an operation that did not meet reasonable current industry standards.”*

3 - *“The failure of each and every funeral home defendant to discharge its duty of special care to ensure that the remains entrusted to their care were handled respectfully and in accordance with the wishes of the families of the deceased contributed to and caused harm to the plaintiffs and the class.*

***Had any one of the funeral home defendants inspected, supervised or monitored Bayview Crematory’s cremation practices, as this special duty requires, Bayview Crematory’s practices would have been discovered and stopped before widespread injury took place”**(emphasis added).*

*And finally...*

4 - *“The funeral home defendants **are responsible** (emphasis added) for the atrocities that occurred at Bayview Crematory because they knew, or recklessly and/or negligently disregarded, the disrespectful way that Bayview Crematory treated the remains of the loved ones of plaintiffs and the class.”*

Funeral homes using Bayview Crematory paid about 30% less than competing crematories charged and Bayview provided a free pick-up and delivery service. This amounted to about a \$75-125 savings per cremation.

**The payout for these 4000 families is projected to be about \$50,000-75,000 each - amounting to approximately a \$200-300 million total.**

*These settlements send a strong message of validation to attorneys nationwide that there is a growing market (and already a few proven templates) for suing funeral homes that do not practice basic oversight due diligence. This will also have a real impact on the entire funeral industry’s ability to get affordable professional liability coverage.*

**Therefore, The Current Reasonable Standard Of Professional And Legal Accountability Regarding Cremation Has Once Again Been Raised.**

Robert Smalley's recommends that funeral directors simply need to:

- 1- Sincerely pay as much attention to the \$1300 cremation as the traditional \$6000 burial.  
and
- 2 - Practice prudent risk management through unannounced inspections of third party crematories.

*"If you document your efforts, you will be much less likely to make an attractive defendant."*

**Recommended due diligence packages have been made available from CANA, ICFA, NFDA and some cremation providers like PCI since February of 2004. *Failure to use one, at this point, will be deemed irresponsible and negligent by a court of law.***

**Change is inevitable. We all must adapt to this evolution in our industry. A casual, cavalier attitude toward proper cremation due-diligence today is simply too dangerous. It exposes us all to disastrous liability. Don't let a few dollars or a few minutes keep you from doing what is right. Attaining proper procedures and documentation may cause some initial inconvenience for some, but it will ensure that we all are safeguarded. And as an industry, we are constantly doing our best to uphold the legal and ethical trust that families are placing in us when they choose cremation.**

**The following information is what we at Philadelphia Crematories, Inc. provide for our customers. It is a good example of what you should expect from your third-party crematory. If your current cremation provider can not or will not provide this documentation for your protection, you need to search for one that can and will.**

**William Sucharski  
Philadelphia Crematory, Inc.  
Philadelphia , PA**

November 28, 2005

Dear PCI customer,

According to current legal and professional industry standards, the **THIRD-PARTY CREMATORY DUE DILIGENCE PACKAGE** is protection that every funeral home must have. This comprehensive, four part, fact-finding exercise documents:

- I. Funeral Home Internal Policy
- II. Requested Crematory Records
- III. Crematory Interview Questions
- IV. Crematory Inspections

Making this good faith effort is what is *reasonably expected* by the cremation families you serve, your industry officials, and your insurance carrier. Proper collection and documentation of this information is vital to limiting your liability in the event of litigation.

Enclosed, you will find parts II and III completed by PCI for your due diligence file. All that you still need to do is document your internal FH policies and procedures regarding proper authorization, identification, transportation, etc.(see enclosed part I), and perform two unannounced crematory inspections (part IV, also enclosed) per year.

PCI delivers comprehensive, quality responses for the due diligence package regarding crematory policies, procedures, staff and facility – standards unmatched by any other local crematory. We are proud to provide our industry and the families served with *complete confidence*.

Recent market factors have dictated an increase in the cost of providing our service (2006 price list enclosed). *Our existence depends upon you valuing the level of service we provide.* PCI vows to maintain and improve upon industry cremation standards and practices as long as you – our funeral home customers – allow us the opportunity.

Sincerely,

William E. Sucharski

## II. CREMATORY RECORDS REQUEST

(CANA, BACP, NFDA and ICFA APPROVED)

Name of Crematory: Philadelphia Crematories, Inc.  
Address of Crematory: 7350 State Rd. Phila., PA 19136  
Contact and Telephone No.: Bill Sucharski 215-708-7747  
Name of Funeral Home: \_\_\_\_\_  
Address of Funeral Home: \_\_\_\_\_  
Contact and Telephone No.: \_\_\_\_\_

The Funeral Home is requesting that the Crematory provide copies of the records listed below or, if the records are not available, please explain why in the space provided. The Funeral Home needs the requested records as part of its due-diligence investigation to make sure that any crematory it uses is operating in a lawful and professional manner.

### IF A REQUESTED RECORD IS NOT PRODUCED, PLEASE EXPLAIN WHY.

1. Policy and Procedure Manual for Crematory:  
See back page of PCI authorization form.
2. State Crematory License or Permit:  
Pennsylvania does not yet license crematories. Phila. Air Management Services regulates and issues permits for emissions by crematories in Phila. (See attached licenses and stack testing results).
3. Copies of Membership Certificates from CANA, Better Business Bureau or Other Organizations:  
See attached CANA and BBB membership cert.'s, and Board of Advanced Cremation Practices accreditation certification.
4. List of Crematory Operators Employed by Crematory and a Copy of their Operator Certifications:  
Bill Sucharski, Jay McGee, Andrew Meredith, Bob Sucharski, Rich McFillin, and Dave Barnes are all CANA Certified Crematory Operators (Certificates are all displayed in our office)
5. Copies of Crematory's Liability Ins. Policy and Professional Liability (Errors and Omissions) Ins. Pol.:  
PCI mails out certificates of insurance naming our fh's as additional insureds on our policy every year.
6. Copies of Cremation Authorization Form and Any Release Forms Used by Crematory:  
(See Attached Copies)
7. Copies of All Body Acceptance Forms and Cremated Remains Receipt Forms Used by Crematory:  
(See Attached Copies)
8. Copies of All Price Lists Used by Crematory:  
(See Attached Copies)
9. Copies of Any State Inspection Reports of the Crematory:  
(See previous Phila. Air Mgt. stack testing results and the following chart recordings reference)
10. Copies of Recent Maintenance Reports or Logs Used Internally by the Crematory for its Equipment:  
PCI utilizes circular chart monitors which record each unit's performance, along with maintenance and repair schedules. (Please inspect these during your Crematory Inspection)

### III. CREMATORY INTERVIEW QUESTIONS

#### A. Management and Personnel

1. Who owns the crematory? Bill & Sue Sucharski, and Walt & Lisa Sucharski
2. When did the current ownership acquire or start the crematory? May 1<sup>st</sup>, 1991
3. How many crematory operators are employed by the crematory? Four full-time, and two part-time
4. What type of background check is conducted before a crematory operator is hired? Bill Sucharski handles the hiring of employees and all appropriate background checks and references.
5. What type of training and/or certification is required of the crematory operators, and who conducts the certification? Our operators are all CANA certified (training administered through Matthews Cremation) and are instructed daily on proper crematory operational procedures by Bill and Jay, who are both also licensed funeral directors and active CANA members.
6. What is the retention rate that the crematory has experienced with crematory operators. Bill = 15 yrs., Jay = 7 yrs., Andrew = 7 yrs., Bob = 5 yrs., Rich = 1.5 yrs, Dave = 10 yrs.

#### B. Facilities and Equipment

1. Does the crematory have refrigeration? Yes If so, is the refrigeration unit operational? Yes  
How many bodies can it hold, and what is the age of the equipment? 3 Bodies 9 Yrs. Age
2. Describe the retort that is used, including its manufacturer and year of manufacture:  
We have three IEE (Matthews Cremation) Power Pak II's 1991, 1997 & 2004
3. What type of processing station is used by the crematory? We use the state-of-the-art HEPA-VFC Processing Station which we have patented and marketed throughout the industry. This station enables the proper collection and disposition of all cremated remains dust produced during processing.
4. Describe the schedule for inspecting and servicing the crematory equipment: The equipment is inspected daily, and major refractory repairs are performed on each unit after every 1800 – 2000 cremation. Stack tests are also performed on each unit every 5 years to confirm clean and efficient combustion.
5. Does the crematory have an alarm/security system? Yes If yes, describe it. PCI has a thorough alarm system along with video surveillance and recordings. Entry to the property is also gated

## C. Operations

1. What procedures are used to identify remains awaiting cremation, remains in the cremation chamber, cremated remains in the processing station, and the urn(s) or container(s) holding the cremated remains?  
PCI custom-built our own highly specialized state-of-the-art crematory database program. From the moment an order for cremation is taken, and entered into the database, a case number is assigned which will remain constant throughout completion and return to the family. An identification label, along with an additional, in-house, secondary metal I.D. disc is affixed to the cremation container upon receipt at PCI. A work order produced by the database, and signed by the FH rep., and PCI rep., is also clipped to the corresponding work station while the remains are being cremated, cooled, or processed. The cremated re-mains are then heat-sealed in a plastic bag along with an ID tag issued by the database. Finally, database issued labels are affixed to the sealed urn(s) or container(s) ensuring the consistent integrity of the process.
2. How and where are remains stored while awaiting cremation? At PCI, human remains awaiting cremation are required to be received in a rigid, covered, leak-resistant container/casket. Remains are held in our private, air-conditioned holding room. If necessary, due to our schedule, remains can be held overnight in our refrigeration unit.
3. How long does the crematory typically hold a body before cremation? 0-4 hours
4. How are cremations scheduled? Are cremations done by appointment? At PCI, we request to be notified that you are bringing remains to be cremated so that we can initiate a case in the database, and have the necessary paperwork ready when you arrive. Family witnesses to the commencement of the cremation process need to be scheduled in order to have an open unit available when you arrive with the family.
5. Does the crematory allow witnessing of the cremation by the public? Yes If yes, what type of facility has been set up for the witnesses? PCI offers a chapel for families wishing to have an ID viewing or committal service, and a private witnessing room for those who wish to be present when the cremation begins, or even during the entire process.(See photos on back page of our urn brochure)
6. Describe what requirements the crematory has for cremation containers: At PCI, human remains are required to be received in a rigid, covered, leak-resistant container/casket.
7. What does the crematory do with commingled cremated remains dust in the filtration material it collects? PCI collects, labels, documents and consigns this material to earth in a vault at Beechwood Cemetery.
8. If the crematory does not collect the cremated remains dust, what happens to it? \_\_\_\_\_  
\_\_\_\_\_
9. Describe the crematory's policy for recovering, handling and disposition of jewelry, dental gold, prosthesis, medical devices and casket hardware: After the cremation, all materials other than cremated human remains will be visually and magnetically extracted, collected, labeled, documented and consigned to earth in a vault at Beechwood Cemetery.
10. Does the crematory cremate remains in metal caskets? No If yes, what is done with the charred shell? \_\_\_\_\_

11. Does the crematory perform pet cremations or incineration of medical waste? No If yes, are pet cremations and/or medical waste incinerations performed in a separate retort (one not used for human remains)? \_\_\_\_\_
12. Describe the crematory's policy for handling excess cremated remains? At PCI, if all of the cremated remains do not fit in the urn/container provided, then we will use an additional container(s), and label them as #1of2 and #2of2, etc.(the same way we proceed when multiple urns/containers are selected)
13. Describe the crematory's procedures for identifying and labeling cremated remains in urns/temp.containers:  
PCI's database generates a label/sticker that is affixed to the urn/temp. container. There is also an ID tag that is heat-sealed inside the bag holding the cremated remains. Both pieces contain the deceased's name, date of cremation, cremation number, arranging funeral home, and crematory identification. We also seal our plastic temporary urns closed with a gold seal sticker, which reveals if an urn has been opened after leaving our possession.
14. Describe the crematory's policy for packaging and shipping cremated remains: PCI mails cremated remains via the US Postal Service Registered Mail (labeled clearly as cremated remains).
15. Describe the crematory's policy for handling unclaimed cremated remains: PCI recommends that the arranging funeral home send a certified letter to the next of kin before consigning cremated remains to earth in a documented, recoverable manner. (We consign at Beechwood Cemetery, Bensalem, PA)
16. Does the crematory have a scattering service? Yes If yes, please explain how it operates: PCI owns South Jersey Sea Scattering Service which: scatters cremated remains at sea 3 miles off the coast of Ocean City, NJ; registers the deceased's info., longitude, latitude and date of event with the Federal EPA office; and issues a certificate containing that information to the authorizing next of kin.
17. Does the crematory offer educational tours of the crematory for funeral home personnel? Yes If yes, please explain how this can be arranged: PCI has always provided educational tours for funeral home personnel. We also provide educational field trips every semester for MCCC's mortuary science program. PCI is accredited by the New Jersey State Board of Mortuary Science to give 2 continuing education credits for crematory due diligence training. We are also proud to have been designated by the Board of Advanced Cremation Practice as their Eastern U.S. Regional Model Facility for procedural standards and testing.
18. Does the crematory permit unannounced inspections of their facility by funeral home personnel? Yes
19. Will the crematory list the funeral home as an additional insured on its professional liability insurance policy? Yes If yes, will the crematory furnish the funeral home proof that its name has been added to the policy as an additional insured? Yes .

**This information provided by the third-party crematory must be retained by the funeral home in a due diligence file at the funeral home. The funeral home must also document their internal policies and procedures regarding cremation, and perform at least two unannounced inspections of their third-party crematory every year.**