

# Selling the Opening & Closing in Advance: Should I Or Shouldn't I?

by Daniel M. Isard, MSFS

**I**T IS A SIMPLE MATTER. When you make an advance sale of an interment right, do you at the same time make an advance sale of the Opening/Closing (O&C)? In my 40-year career, I have never seen such a simple question cause so much disagreement.

Let me make sure we all understand the description of the simple matter at hand. For any interment, in the ground or above ground, for a caskets interment or an urn inurnment, there needs to be a service for opening the crypt, grave, or niche. Once opened, after placing the human remains in the site, you close the grave or ground niche by refilling earth or closing the door panel of the above ground niche or crypt. It is a simple act. We all charge for it. The question is not whether to charge at need, but to ask the family to complete the contract on an advance sale.

## State Laws

Usually, in an advance sale, you look to the

state law as to how much of this fee needs to be placed in trust, since the act of O&C has not happened yet. For the sake of this discussion, allow me to state some hypothetical numbers. Assume the O&C charge is \$1,000 and assume the state that this takes place in requires 70% to be trusted, or in this case \$700, with \$300 booked as income.

As we know, at need or advance need, cemetery sale agreements have three components; The Interment, The Merchandise, and The Service. Usually a fee for Perpetual care or Endowment Care is a premium charged and deposited into a separate trust. It is computed as per your state law. The premium charged is added to the corpus

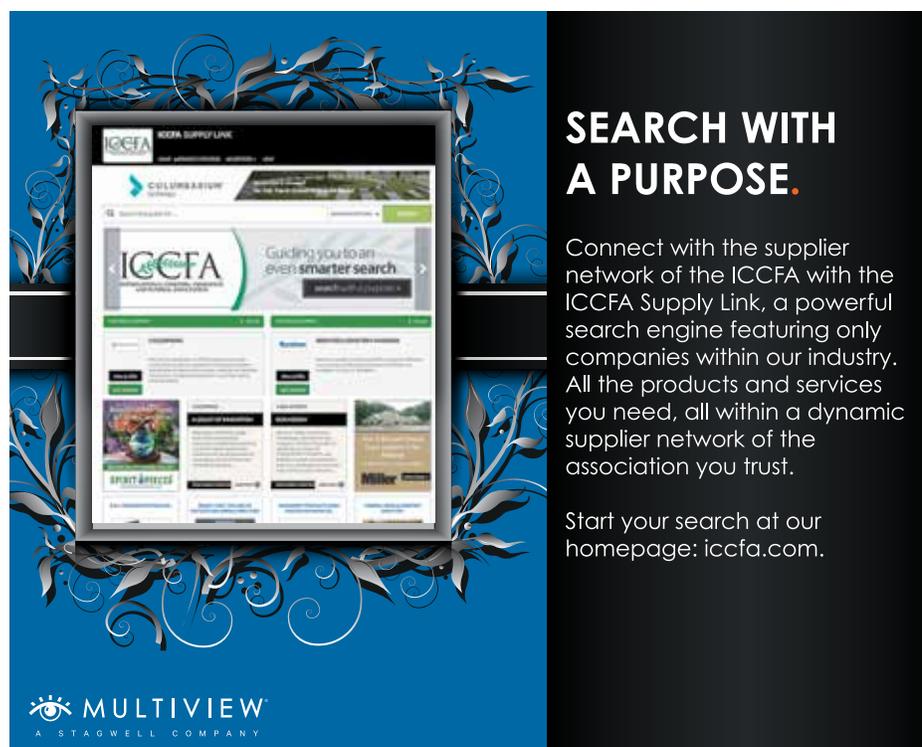
of the existing trust. The Perpetual Care premium really is above any income that makes up the cemetery revenue. Since we are willing to recognize the income on an advance sale for the interment right and we are willing to recognize some portion of the merchandise sold as part of the interment, why is there a question about whether to presell the O&C? What makes the O&C different from either the merchandise or the interment sales?

For 40 years, I have discussed this with clients and at symposia. The argument for it is, "Of course we do. We get our money paid up front," with a shrug of the shoulders implying I am an idiot for even asking the question. The other side of the argument is:

## 1. "Why would we. The price of O&C goes up. We could lose money on it."

Of course, the same could be said for the merchandise. Imagine you sell a \$1,000 marker for an interment. Assume you were in a 70% trusting state. In most cases, you are going to buy a marker and then inflate the pricing from wholesale to retail maybe by marking the product up by 100% to 200%. If it were a 100% mark-up, that means the \$1,000 sale has a \$500 cost. If you put \$700 into the Merchandise Trust (the assumed trust law hypothetically established above), that means if the merchandise goes up \$200 over the time from the arrangement to the delivery, you are again potentially going to lose money when delivered.

How many of your existing inventory is sold but not interred? What is the average time period from the date of sale until today? I know in most cases about 25% of this category are more than 20 years old. That could be because people are still living or the buyer moved out of the area and upon the time of death, someone chose cremation for this person so the grave will



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never be used. That means the partial payment in the Merchandise Trust will never be used!

Ultimately, at some point, the cemetery should “Escheat” the money to the state, but if you do that you will have less corpus within that trust. With less corpus, you will have less trust interest, which you need to help offset the operating costs of the cemetery. So, I rarely see a cemetery looking for those accounts that should be Escheat to the state.

If you are not aware of the concept of “Escheat,” it is when property is abandoned or left with no known inheritor, beneficiary, or identifiable owner. The property can be real property, including cash. We see this with banks and investment companies all the time. Another example would be unfulfilled Executory Contracts. Executory Contracts are when pre-need funerals and cemetery contracts are contracts that are

## But not asking for the money as part of an advance sale arrangement could lead to confusion and hurt feelings with the surviving children.

waiting for one last action to be put into action. In this case, the death of the property owner.

At some point in time, a presumption is made that the owner has abandoned this property and it is turned over to the control of the state. Imagine a sold but not interred grave bought by a person who listed the date of birth as 1900. Today, 123 years later, if they are not proven to be alive, you can assume they died and did not use or transfer this grave and merchandise property or the O&C service.

### 2. “We use a third party to O&C, and they don’t want us to prepay this.”

Many cemeteries contract with a third party for O&C. It cuts down on the investment in equipment and staff. For smaller cemeteries (maybe under 100 interments a year or less), it is cost effective. The use of a third party or the use of your own staff and equipment should not be a factor in the choice of funding O&C with an advance sale.

The same argument can be used for any merchandise you purchase from a

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third-party manufacturer. Some cemeteries will pour their own grave liners, but many will purchase preformed grave liners and vaults from a third party. I understand the financial risk. If you sell a manufactured grave liner or vault, you run the risk of the inflationary compounding on the merchandise to be delivered in the future. This same risk exists in merchandise and services.

### Say Yes to the O&C

In the M&A world of cemeteries, if the O&C is not paid for, it is often a stumbling block. Not a deal breaking issue, but a small issue. If it was the widespread practice of the previous owner to not ask for payment on an O&C at the time of the advance arrangement, a buyer needs to know this. A buyer may want to write to the consumers and offer the chance to advance fund now that a sale of the cemetery has taken place.

My opinion is that if you are advance selling interment rights, you should deal with the prepayment of O&C. Imagine this consumer leaves your office. They

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immediately call their oldest child. The consumer says, "I just left the cemetery and arranged for everything." The child on the other end of the call remembers the simple statement. You don't want to inform the child within hours of losing their parent, either their memory was faulty or their loving parent's comments were incomplete. It is a consumer benefit to have the consumer prepay for this, not leaving the O&C as something their kids will have to pay before the cemetery interment.

In a service business, you charge for your labor and staffing. If you set your pricing properly, then your O&C should be a profit center for you even if you are using a third party. The use of the third party doesn't cap the O&C fee. If the third party is charging you \$X, then you should mark this up just as you would merchandise. For at need, this is a form of current Gross Profit. On an advance sale, it is a form of deferred revenue. But not asking for the money as part of an advance sale arrangement could lead to confusion and hurt feelings with the surviving children. Don't risk it. Ask for payment! 



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