

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
THE PEOPLE OF THE STATE OF NEW YORK, by
LETITIA JAMES, Attorney General of the State of
New York,

IAS Part

Petitioner,
-against-

VERIFIED PETITION

Index No.

POLANCO MONUMENTS, INC; HEAVENLY
MONUMENTS, INC.; RAMON A. POLANCO, Individually
and as a principal of POLANCO MONUMENTS
CORPORATION; JUAN POLANCO Individually and as a
principal of HEAVENLY MONUMENTS; and
VICTORIA NOLASCO, a/k/a VICKY NOLASCO,

Assigned to Justice

Respondents.
-----X

The People of the State of New York, by Letitia James, Attorney General of the State of
New York, respectfully allege, upon information and belief:

INTRODUCTION

1. Petitioner commences this summary proceeding to enjoin Respondents from
further engaging in deceptive, fraudulent and illegal practices in connection with their operation
of cemetery monuments¹ companies in Bronx and Nassau Counties; to recover restitution and
damages for customers victimized by their unlawful practices; and to obtain civil penalties and
costs, as authorized by statute, to be paid to the State of New York.

2. From at least 2003 through 2018, Respondent Ramon A. Polanco engaged in a
deceptive and fraudulent scheme in which he induced vulnerable consumers coping with the

¹ GBL § 454, "Sale of monuments and memorials" references the term "memorial" and defines it as any monument, headstone, footstone, ledger stone, marker or plaque designed or intended to be erected in any cemetery, grave, mausoleum or other appropriate place of burial or other appropriate place of burial or memorialization. The term monuments is used herein.

death of a loved one to pay upfront fees for monuments typically costing between \$995.00 to \$4,200.00, and subsequently failing to provide the promised service. Respondents Juan Polanco and Victoria Nolasco also engaged in this deceptive and fraudulent scheme from 2015 through 2018.

JURISDICTION AND PARTIES

3. Petitioner is the People of the State of New York, by Letitia James, Attorney General of the State of New York (“NYAG”).

4. Petitioner commences this summary proceeding pursuant to a) Executive Law § 63(12) which empowers the Attorney General to seek injunctive relief, restitution, damages and costs when any person has engaged in, or otherwise demonstrated, repeated or persistent fraudulent or illegal acts in the transaction of business; and b) General Business Law (GBL) §§ 349 and 350, which empower the Attorney General to seek injunctive relief, restitution and civil penalties when any person or entity has engaged in deceptive acts or practices, or false advertising in the conduct of any business.

5. Respondent Polanco Monuments, Inc. (“Polanco Monuments”) is a New York State Corporation that sold cemetery monuments to consumers that operated from 2112 Westchester Avenue in Bronx County from at least 2003 to 2015, from 2100 Westchester Avenue from at least 2015-2017, from 2126 Westchester Avenue, Bronx from 2015-2018, and from 80 Main Street, Hempstead, Long Island from at least 2015 to 2018.

6. Respondent Heavenly Monuments, Inc. (“Heavenly Monuments”) is a New York State Corporation that sold cemetery monuments to consumers that operated from 80 Main Street, Hempstead, Long Island from 2015 through 2018.

7. Respondent Ramon A. Polanco is an individual who served as the President and CEO of Polanco Monuments and conducted business from at least 2003 through 2018.

8. Respondent Juan Polanco is an individual who conducted business through both Polanco Monuments and Heavenly Monuments from at least 2015 through 2018.

9. Respondent Victoria Nolasco a/k/a Vicky Nolasco is an individual who conducted business with Juan Polanco through Polanco Monuments, Inc. and Heavenly Monuments, Inc. from at least 2015 through 2018.

10. Respondents Polanco Monuments, Heavenly Monuments, Ramon Polanco, Juan Polanco and Victoria Nolasco are collectively referred to as “Respondents.”

11. Petitioner served Respondents with a pre-litigation notice pursuant to GBL §§ 349 (c) and 350-c. (See Exhibit J.)

FACTS

12. Respondents advertised their monument products in brochures made available to consumers at funeral parlors, or mailed to consumers at their homes, or when Respondents abruptly appeared at their homes without prior notice to offer their services.

13. Respondents used their promotional materials to lure consumers into paying upfront fees for monuments they repeatedly failed to provide.

14. Respondents repeatedly failed to provide refunds to consumers who requested them.

15. Respondents abruptly closed their businesses without providing advanced notice to consumers in an effort to circumvent providing the service or a refund.

16. Only two of the twenty-six complainants who filed a complaint in support of this proceeding received a monument.²

A. Respondents' Advertisements

i) Polanco Monuments

17. Respondents advertised their services through several methods, including their website, www.polancomonuments.net, brochures and flyers that were made available for consumers at RG Ortiz Funeral (a Manhattan and Bronx-based funeral business), and to consumers during unsolicited house visits. (See the complaints Nora Lester Murad, Ana Moore, and Marcial Perez, Exhibits H-8, H-13, and H-14 respectively.)

18. Through their website, www.polancomonuments.net, Respondents advertised Polanco Monuments as a knowledgeable family business committed to providing the best service with over thirty years of experience:

We are a family owned business for over 30 years. We are committed to give you the best service during your difficult time. Our knowledge of the industry allows us to give you the best service to make this difficult process as fast and easy as possible.

(See Exhibit L.)

19. Respondents also represented through their website that they are the premier local, full-service monument dealer:

As a full-service, wholesale monument dealer we can assist with arrangements for virtually any type of monument to accommodate all requests. Polanco Monuments invites you to come and visit with us and see that we are truly the premiere monument dealer in the area.

(See Exhibits L and M.)

² The two complainants who eventually secured their monuments from Polanco Monuments are Ana Moore (See Exhibit H-13) and Kevin Pope (See Exhibit H-16). Their complaints demonstrate Respondents' fraudulent and illegal conduct.

20. Respondents also advertised through the popular crowd-sourced review website,

Yelp:

Polanco Monuments has served the tri-state area community, providing personal service to cemeteries of all denominations. More than 30 years of experience has taught us to provide the highest quality memorials with professional and friendly memorial specialists. As a full-service, wholesale monument dealer we can assist with arrangements for virtually any type of monument to accommodate all requests. Polanco Monuments invites you to come and visit with us and see that we are truly the premiere monument dealer in the area.

(See Exhibit N.)

21. Respondents had their Polanco Monuments brochures available for consumers at RG Ortiz Funeral and provided them to consumers via mail or during unsolicited house visits; they provided photos of their monuments with cost and payment information in English and Spanish:

*We accept major credit cards
*Financing Available
*Call us and one of our representatives
Will visit you at your residence
PRICES STARTING AT
\$995
Easy Payment Term
All Types of Accessories

(See Exhibit P.)

22. Respondents provided brochures to consumers when they made unsolicited and unexpected business visits to their homes:

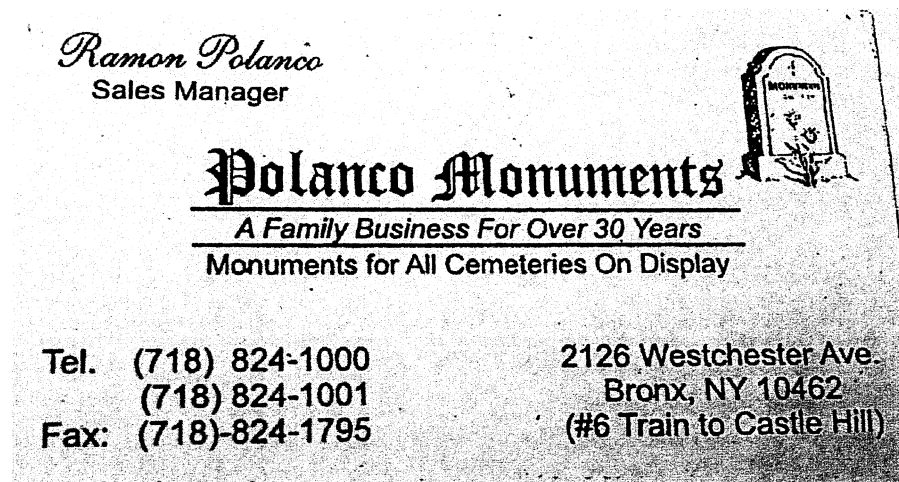
My parents died on 2013 and 2014 and I buried them on Cypress Hills, Brooklyn. This man³ comes out of no where comes to my house stating that they worked with the cemetery and if I was interested on seeing their monuments. So I invited him in my house and show me samples of some monuments so

³ Complainant Marcial Perez' complaint form indicates he transacted with Respondent Juan Polanco. (See Exhibit H-14.)

I went forward sign a contract and gave him \$2,000 cash deposit.
(See Attorney General Complaint Form of Marcial Perez, Exhibit H-14.)

March 8, 2016, Mr. Polanco came to my house to show me samples of monuments stone. I order a stone for my mother for the amount of \$2,200 and sign a contract with him, while he was in my home showing me samples of stone he was very persistent telling me I had to give him a deposit for the stone, so I gave him \$100.00 dollars which I had to pay my Con Ed bill.
(See Attorney General Complaint Form of Ana Moore, Exhibit H-13.)

23. Respondent Ramon Polanco advertised Polanco Services by disseminating his business card:



(See Attorney General Complaint Form of Minnie Berkley, Exhibit H-3.)

ii) Heavenly Monuments

24. From at least 2017 through 2018, Respondents provided consumers with flyers announcing Heavenly Monuments and produced brochures to promote the business.

25. A Heavenly Monuments brochure promoted the business by advertising their services as “highly quality” and “affordable”:

“We pride ourselves with the highest
quality at an affordable price.”

(See Exhibit Q.)

26. Heavenly Monuments business cards advertised the products they sold with the representation “We Service All Cemeteries in New York and New Jersey”:



(See Attorney General Complaint Form of Minerva Ventura, Exhibit H-24.)

27. However, as set forth below, consumers who purchased a cemetery monument from Polanco Monuments or Heavenly Monuments never received one despite entering into purchase agreements and making upfront payments.

B. Deceptive Business Practices

28. Consumers who responded to the solicitation from Respondents' brochures or a visit to their home from a Polanco Monuments or Heavenly Monuments representative entered into purchase agreements that required upfront payment of the monument, and typically payment of a cemetery foundation fee.

29. Respondents charged between \$995.00 to \$4,200.00 for their cemetery monuments.

30. Consumers who followed-up to inquire about the status of their monument and were able to speak to a Polanco Monuments or Heavenly Monuments representative were informed that the monument would be ready in a few months. Additional follow-up calls to Respondents typically went unanswered.

31. Many consumers who called Respondents were unable to speak to a representative and failed to have their numerous phone calls returned.

32. Consumers who sought a refund never received one.

33. Consumers who failed to have their phones calls answered and visited Polanco Monuments or Heavenly Monuments to inquire about the status of their monument learned that the businesses had abruptly closed without Respondents providing them prior notice.

34. Only two of the twenty-six complainants who registered complaints with the Attorney General's office received the monument they paid for.

C. Violations of General Business Law Article 28-A.

35. GBL Article 28-A regulates Cemetery Property and Funeral Services. A consumer is defined pursuant to Article 28-A as a natural person who is solicited to purchase or who purchases a memorial. GBL § 454 (a). A memorial is defined as any monument, headstone, footstone, ledger stone, marker or plaque designed or intended to be erected or installed in or on any cemetery, grave, mausoleum or other appropriate place of burial or memorialization. GBL § 454 (b). A seller of a monument or memorials is defined as an individual, firm, corporation, not-for-profit corporation, religious corporation, municipal corporation, political subdivision, partnership, association, society or joint stock company, or any agent or employee thereof. GBL § 454 (c). An offer of sale is defined as any contract by a seller with a consumer of which the subject of the sale is a memorial to a consumer is a part, whether

such contract be in person, by telephone, mail, or other electronic means, and regardless of whether or not the consumer initiates such contact. GBL § 454 (d).

36. Although Respondents are sellers of memorials to consumers in accordance with Article 28-A, they failed to comply with several of the requirements of the article, as outlined below.

i. Violations of GBL§ 454(2)

37. GBL § 454 (2) provides that each sale of a memorial shall be evidenced by a written contract which must be signed by all of the parties, dated, and be separate from any other contract, agreement, purchase order, price list, itemization of funeral services and merchandise selected or document reflecting the purchase by a consumer of any real or personal property or service relating to the burial, cremation, or other disposition of a deceased person.

38. GBL § 454 (2) further provides that contracts must include the following:

- (a) the name, address and telephone number of the seller of the memorial;
- (b) the name, address and telephone number of the consumer;
- (c) the full name of the individual to be memorialized and, if known, the date of such individual's death;
- (d) a full description of the memorial, including the material to be provided, the dimensions of the finished memorial, a sketch or drawing of the proposed memorial, the wording of any inscription on such memorial including the approximate layout thereof, the method of engraving of such inscription and the country or state of origin of such monuments or memorial provided by the manufacturer;
- (e) the approximate date when the memorial is expected to be completed.
- (f) the name of the cemetery in which the memorial is to be placed, together with the location of the plot or grave, if known; and
- (g) a full disclosure of each of the following: the price of the memorial; applicable sales tax, if any; the charge made by the cemetery for the foundation; and changes for additional work, provided that such additional work is clearly described in the

contract and such changes are itemized; the total price as contracted; and the schedule of payment, if any.

39. However, Respondents failed to provide consumers with contracts that comply with GBL § 454 (2).

40. Respondents' contracts violate § 454 (2) by failing to indicate the approximate date when the memorial was expected to be completed. (See Exhibits H-1 through H-26.)

41. Respondents' contracts violate GBL § 454 (2)(d) by failing to provide a full description of the memorial. (See Attorney General Complaint Forms of Elba Alers, Gregory Campbell, Betty Espinell, Sylvia Estrella, Ramon and Olga Jimenez, Nora Lester Murad, Iris Lopez, Maria Lopez, Zoraida Montero, Ana Moore, Marcial Perez, Janet Rivera-Ceballo, Modesta Rodriguez, Carlos Santana and Orquidea Mejia, Reynaldo Solis, Ana Torres, Minerva Ventura, Beatrice Ventura, Beatrice Watford, and Dax Williams, Exhibits H-1, H-4 through H-10, H-12 through H-14, H-17, H-19, H-21 and H-22 through H-26, respectively.)

42. Respondents' contracts violate GBL § 454(2)(b) by failing to provide the customer's name, address and telephone number. (See Attorney General Complaint Forms of Elba Alers, Ramon and Olga Jimenez, and Ana Torres, Exhibits H-1, H-7 and H-23 respectively.)

43. Respondents' contracts violate GBL § 454(2)(g) by failing to provide a full disclosure of the charge made by the cemetery for the monument's foundation. (See Attorney General Complaint Forms of Elba Alers and Dax William, Exhibits H-1 and H-26, respectively.)

ii. Violations of GBL§ 454-a

44. GBL § 454-a(1)(a) provides that except as indicated in paragraph (b) of this subdivision, it is unlawful to provide an offer for monuments or memorials by mail unless such offer has been solicited by the individual to whom it is sent.

45. GBL § 454-a(1)(b) provides that such an offer is permissible where, in large, bold-face type at the top of such offer, "SOLICITATION" is clearly printed.

46. Respondents have offered the sale of monuments or memorials by mail in violation of § 454-a(1)(a) and § 454-a(1)(b). (See Attorney General Complaint Form of Zoraida Montero, Exhibit H-12 and Polanco Monuments brochure, Exhibit R.)

**FIRST CAUSE OF ACTION PURSUANT TO
EXECUTIVE LAW § 63(12): VIOLATION OF GBL § 350**

47. Petitioner repeats and re-alleges paragraphs 1 through 27 above.

48. GBL § 350 states that false advertising in the conduct of business, trade or commerce or in the furnishing of any services in this state is unlawful.

49. By engaging in the acts and practices described above, Respondents have repeatedly and persistently engaged in false advertising in violation of GBL § 350.

50. Respondents' violations of GBL § 350 constitute repeated and persistent illegal conduct in violation of Executive Law § 63(12).

**SECOND CAUSE OF ACTION PURSUANT TO
EXECUTIVE LAW § 63(12): VIOLATION OF GBL § 349**

51. Petitioner repeats and re-alleges paragraphs 1 through 34 above.

52. GBL § 349 states that deceptive acts or practices in the conduct of business, trade or commerce or in the furnishing of any services in this state are unlawful.

53. By engaging in the acts and practices described above, Respondents have repeatedly and persistently engaged in deceptive business practices in violation of GBL § 349.

54. Respondents' violations of GBL § 349 constitute repeated and persistent illegal conduct in violation of Executive Law § 63(12).

**THIRD CAUSE OF ACTION PURSUANT TO
EXECUTIVE LAW § 63(12): VIOLATIONS OF GBL ARTICLE 28-A**

55. Petitioner repeats and re-alleges paragraphs 1 through 46 above.
56. GBL Article 28-A regulates Cemetery Property and Funeral Services in the State of New York.
57. Respondents have violated GBL Article 28-A by the following, including but not limited to:
- a. providing contracts that fail to indicate the approximate date when the memorial was expected to be completed in violation of GBL § 454(2);
 - b. providing contracts that fail to provide a full description of the memorial in violation of GBL § 454(2)(d);
 - c. providing contracts that fail to indicate the consumer's name, address and telephone number in violation of GBL § 454(2)(b);
 - d. providing contracts that fail to provide a full disclosure of the charge made by the cemetery for the foundation in violation of § 454(2)(g); and
 - e. conducting unsolicited offers for monuments in violation of GBL § 454-a.
58. Respondents' violations of GBL Article 28-A constitute repeated and persistent illegal conduct in violation of Executive Law § 63(12).

**FOURTH CAUSE OF ACTION PURSUANT TO
EXECUTIVE LAW § 63(12): FRAUDULENT CONDUCT**

59. By virtue of the conduct set forth above, Respondents have engaged in repeated and persistent fraudulent and illegal conduct pursuant to Executive Law § 63(12).

WHEREFORE, Petitioner respectfully requests that a judgment and order be issued:

- 1. permanently enjoining Respondents, their employees, agents, successors, heirs and assigns, directly or indirectly, from engaging in the fraudulent or illegal practices alleged herein;

2. directing Respondents to provide Petitioner with a financial accounting of each consumer transaction;
3. directing Respondents to provide Petitioner a listing of every employee employed by Respondents, including their titles, and respective home addresses;
4. permanently enjoining Respondents from directly or indirectly destroying or disposing of any records pertaining to their business;
5. directing Respondents to pay restitution and damages to any injured consumers to be identified by the Attorney General after his investigation of the information provided by Respondents pursuant to paragraph 2 above;
6. directing Respondents to pay civil penalties to the State of New York pursuant to GBL § 350-d for each false advertisement and each instance of deceptive business acts or practices;
7. awarding Petitioner \$2,000.00 in costs against each Respondent pursuant to CPLR § 8303(a)(6);
8. directing Respondents to notify Petitioner of any change of address within five days of such change; and
9. granting Petitioner such other and further relief as this court finds just and

proper.

Dated: New York, New York
October 8, 2021

Yours truly,

LETITIA JAMES
Attorney General of the State of New York
Attorney for Petitioner
163 West 125th Street, 13th Floor
New York, New York 10027
(212) 364-6096

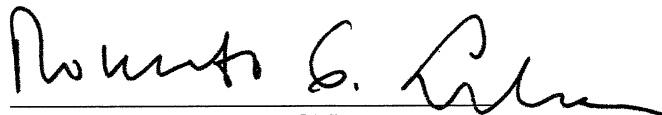
HARLEM REGIONAL OFFICE
ROBERTO G. LEBRON
Assistant Attorney General in Charge
of Counsel

VERIFICATION

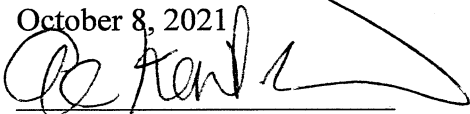
STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

ROBERTO G. LEBRON, an attorney duly admitted to practice law in the courts of the State of New York, being duly sworn, deposes and says:

1. I am the Assistant Attorney General in Charge of the Harlem Regional Office of Letitia James, Attorney General of the State of New York, and am duly authorized to make this verification.
2. I make this verification pursuant to CPLR § 3020(d)(2), as I am acquainted with the facts and circumstances of the matters alleged herein. The basis of my knowledge are the files of the Bureau of Consumer Frauds and the Harlem Regional Office.
3. The petition herein is true of my own knowledge, except to the matters stated to be alleged upon information and belief, and as to those matters I believe them to be true.
4. I certify to the best of my knowledge, information and belief that the contents of the verified petition are not frivolous.
5. The reason this verification is made by petitioner is that the petitioner is a body politic and the Attorney General is its duly authorized representative.


ROBERTO G. LEBRON

Sworn and subscribed to on
October 8, 2021


NOTARY PUBLIC
ALISON KENT FRIEDMAN
Notary Public, State of New York
No. 02KE495436T
Qualified in Nassau County
Commission Expires Aug 7, 2025