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independent news & guidance for funeral home owners and operators

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Dear Subscriber:

A county judge has cleared the Wisconsin Funeral Directors Association to resume normal operations, but an investment trust with a $21 million shortfall will remain under the control of a court-appointed receiver, the Wisconsin State Journal reported.

The bigger news for funeral professionals, however, is that they will be reimbursed at least 60 percent of funeral costs under a plan set in motion by Milwaukee lawyer John Wirth, the receiver. The difference, however, will have to be paid by funeral homes.

The only exception will be if a funeral home that put money into the trust went out of business or if funeral services were provided out of the state. In those cases, the trust will pay 100 percent of the claim, Wirth told the newspaper.

So far, Wirth's office has received about 70 applications for payment, and he hopes to process claims in less than a week. Wirth says that some bad investments have already been unloaded.

David Nixon, owner of Nixon Consulting in Chatham, Ill., has clients with up to $2 million in the preneed trust, and he says they're pretty upset by the situation. "Sixty percent was mentioned a while ago, so I don't think it's earth shattering news to them," he says. "But to understand that this is probably it – it's a hard pill to swallow. They really should be grateful that the loss wasn't larger because it certainly could have been."

Dan Isard, founder of The Foresight Companies in Phoenix, says that no one should be happy with how the Wisconsin trust was operated. "And no one should be satisfied with anything less than an absolutely perfect operation," he says.

Recent events like the problems in Wisconsin, Illinois and California should serve as a wakeup call for every funeral home to look at how its trust or preneed insurance is performing, Isard says. "Don't just say, 'Oh, because I haven't heard mine is bad, I should be grateful,'" Isard says. "The people in Wisconsin were having this growing problem for six or seven years, and they were absolutely unaware of this problem until it reached the public's attention."

While Isard does not want to comment on whether or not anything criminal was done, he notes that "there's a level of professional competency" that funeral directors must demand of their association executives and fund managers. He notes that in the case of Wisconsin, some of the association's executives were relatively new to funeral service. "Suddenly, someone comes in and has the gall to say, 'Oh, I know what preneed is, and I know how to correct it. We'll invest in a more aggressive fashion.'" He adds, "I don't know that it's criminal, but it certainly is stupid. And you take stupid and arrogance together, and it normally leads to a lot of problems."

While Nixon is unaware of any firms in Illinois going out of business because of the shortfalls, he says that there have been many hardships, and after five years, it's just starting to get better for most firms. In most cases, Illinois firms also received about 60 percent of their money back, "but it gets a little fuzzy because apparently some of them are trying to compare it to reports they received that had inflated numbers in them," Nixon says. "So what was the real loss?"

The bottom line for Wisconsin firms with money in the trust is that it's going to hurt, Nixon says. "Firms will have to plan accordingly," he says. "Sometimes pricing and such will have to be adjusted to make sure a firm is still healthy."

This is familiar territory for Nixon, who has been dealing with the fallout of a $40 million shortfall discovered in the Illinois Funeral Directors Association's preneed trust in 2006. Somewhat ironically, after a transitional period, the Illinois association chose Fiduciary Partners to be the investment advisor to set it on firmer footing, which is the same firm that was managing Wisconsin's funds. Part of the reason it chose the firm, Nixon says, is because it had experience working with the Wisconsin trust that's now underwater.

While the Illinois association has been assured that its preneed funds are in a different portfolio, Nixon says many people are nervous about the whole situation. "To be blunt about it, I wouldn't be comfortable with them," Nixon says.

Isard agrees with his colleague that there's cause for concern. "It's not to castigate a doctor who botches one operation to say (he or she is) going to be a butcher, but here you have (a firm) that clearly thought it understood how to invest preneed trust funds," he points out.

Funeral home owners with money in any trust or funding vehicle need to recognize that the number one thing they should be doing is seeking to preserve principal, Isard says. Overly aggressive investment strategies should simply be off limits, but he has a theory about why they continue to be so popular: "What we are doing is we continue to try to adjust the investments because we are unwilling to say to the general public that there is no way we can guarantee," Isard says. So owners are increasing their risk on investments "when in reality it's much easier to tell families we can't afford to guarantee," Isard says.

This problem won't become any easier to manage in the future, Isard says. "Preneed fulfillments were only 10 percent of our cases in the 1970s and 1980s, so if you had a shortfall from time to time, you didn't have to worry so much," he says. "But today, you can't ignore the fact that 30 percent of all cases on a national average are prefunded fulfillments, and if you have a shortfall in any of those, you have a problem."

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