



inside this issue

- Was Cassity's plan a legitimate tactic or a breach of contract? 2
- The script Cassity developed to goose preneed sales 3
- How the union fast-track bill could affect your business 4
- Seven ways to 'union-proof' your funeral home 5
- Tennessee preneed measure fails to pass 6

about us

Funeral Service Insider is completely independent, with no ties to trade associations, suppliers, consultants or group owners.
Write us anytime via:

Funeral Service Insider

Two Washingtonian Center
9737 Washingtonian Blvd., Suite 100
Gaithersburg, MD 20878-7364
www.katesboylston.com

Headline news daily!
www.katesboylston.com

FSI Exclusive: Internal E-Mail Reveals NPS' Hardball Tactic to Raise Cash

- *List of 501 firms targeted*
- *'Extortion,' former executive alleges*

NPS' financial condition as recently as last February was so dire that company owner Brent Cassity was ready to launch a "fear and greed" campaign to raise cash, the *Insider* has learned.

Mere weeks before Missouri regulators forced NPS to stop selling preneed within the state, Cassity laid out a plan to raise \$11.8 million by threatening not to pay growth on contracts unless Missouri FDs wrote more business. That would solve the company's "cash crunch," according to an internal NPS e-mail obtained by the *Insider*.

Inside Cassity's Plan to Stem Growth Payments

Under Cassity's plan, 590 Missouri funeral homes were to be told they would not receive growth on their NPS policies unless they wrote at least one new preneed contract every 90 days.

If all 590 of those "non-writing" (Cassity's term) funeral homes could be induced to start writing a contract at that pace, then, at an average \$5,000 per funeral, NPS could generate \$11.8 million of new business in a single year, Cassity wrote in a Feb. 13 e-mail to Roxanne Schnieders, NPS' president of corporate development.

"[That's] as little as four contracts a year," Cassity wrote. "We can even be lenient on that if they are very small...[This] could single-handedly pull us from our volume cash crunch."

Neither Cassity nor Schnieders responded to interview requests for this report. The Texas Department of Insurance,

now the receiver for NPS, also declined to comment. But Cassity's position, as expressed in the February e-mail, was that "we have no obligation to pay them growth if they haven't kept their agreement with us current. Either side can cancel if they are not satisfied. Our satisfaction comes from us receiving some business from them; theirs is receiving growth."

The *Insider* has found no evidence that the plan was ever deployed on a grand scale as an outbound sales effort. But a former NPS account rep, who declined to be identified, confirms that when "funeral homes called to verify why they only received face amount on their claims, they were given the script." (A reproduction of the script appears on p. 3.)

Was the Plan a Legitimate Tactic or a Breach of Contract?

Cassity's legal argument is questionable, says preneed attorney Bill Stalter of Stalter Legal Services in Overland Park, Kan. He says the contract gives the parties the right to terminate their relationship with regard to *future* preneed contracts, not to renege on promises made regarding preneed contracts that have already been sold.

"They're saying, 'We'll do what we said we would, but only if you continue to write business,'" agrees Danielle Grace, a former NPS account rep in Iowa. "That's a threat."

"I call it the 'extortion' e-mail," adds Mike McCoy, NPS' former COO. "It's saying, 'You're either going to send us another contract or you're not going to get what we promised you.' I don't know of anybody else who does that."

Cozean Funeral Home in Farmington, Mo., was on Cassity's target list of 590 firms. But owner Jon Cozean isn't indignant. "Those are hardball tactics, but it's standard practice in the business world," he observes. "Car dealerships are the same way. You have to sell a certain amount if you want to keep that Chevrolet dealership. Lots of industries use leverage that way."

subscriber services

EXECUTIVE EDITOR: Stephen Lee, 301-287-2259
(stephen.lee@katesboylston.com)

CUSTOMER SERVICE: 800-500-4585
FAX NUMBER: 301-287-2039

GET FSI BY E-MAIL: To get a free e-mail version of *Funeral Service Insider*, send an e-mail to us at fsicustomer@katesboylston.com. Type "Begin FSI Online" with your name, business name, zip code, phone number and customer number (from the FSI mailing label). You will receive the issue up to three days before it usually would arrive in the mail.

Funeral Service Insider is an award-winning professional newsletter, completely independent and dedicated to providing fair and accurate reporting, timely news and guidance.

SUBSCRIPTIONS: Direct questions about newsletter delivery and account status? Call 800-500-4585 or send e-mail to customerservice@katesboylston.com.

COPYRIGHT WARNING: Copyright violations will be prosecuted. *Funeral Service Insider* shares 10 percent of the net proceeds of settlements or jury awards with individuals who provide essential evidence of illegal photocopying or electronic redistribution. To report violations, contact Roger Klein, Howrey & Simon, Washington, D.C., 202-383-6846 or kleinr@howrey.com.

REPRINTS: To receive photocopying or electronic distribution permission, call 866-265-0148 or send e-mail to reprints@katesboylston.com and ask about our copyright waiver, bulk subscription and site license programs.

Funeral Service Insider is published weekly 48 times a year by Kates-Boylston, Two Washingtonian Center, 9737 Washingtonian Blvd., Suite 100, Gaithersburg, MD, 20878-7364 (www.katesboylston.com). Price: \$295/year. Copyright 2008, Kates-Boylston.

From: Brent Cassity
Sent: Wednesday, February 13, 2008 2:33 PM
To: Roxanne Schnieders
Subject:

We send out face for a contract that has not written business in the last 90 days. Funeral director calls in.

FD: Why did I only receive the face amount on this contract?

CS: I am sorry, Mr. FD. Let me pull up your file. Oh, I see it looks like we haven't received any contracts from your funeral home in the last 90 days.

FD: So what does that have to do with my inflation?

CS: It relates back to our agreement. To keep your agreement current, we need to receive some business from you in the last 90 days. So all we are really saying is that for you to keep your agreement current with us, we need at least 4 contracts a year, or 1 every 90 days, from your funeral home.

FD: Well, it doesn't say that in my agreement.

CS: No, but what it does say is that if either party is not satisfied with the relationship, this understanding can be immediately cancelled.

FD: Well, I haven't written business with you for over a year and I have been receiving growth on my contracts.

CS: Oh, I understand, Mr. FD. That was our oversight. We certainly are not planning on going back and collecting all those overpayments.

FD: I am supposed to get a written notice.

CS: Oh, I understand, Mr. FD, and I could fax that to you, but I assumed you would want to continue to receive growth on your preneed accounts. We can have our Advantage rep _____ stop by and give you new contracts and share with you our 2008 improved commission schedule that will bring you up to date. Or, if it is more convenient, I can mail that information to you. In fact, I could go ahead and get approval to send out your growth on this account, with the understanding that you will bring your agreement current by sending us a preneed contract in the next 90 days.

FD: I guess that will be OK.

CS: Great! I will make sure I put a note in the system that your funeral home is current and active, and I will make sure our new contracts are sent right out to you.

Desperate to solve a "cash crunch," NPS owner Brent Cassity developed a script to help account execs talk FDs out of their growth payments.

The Texas Department of Insurance's investigation into NPS is ongoing. No time line has been set, says department attorney Rachel Giani.

Many NPS clients face severe financial hardship if they do not receive growth payments. The average NPS-affiliated funeral homes is owed \$80,788 in growth, according to a recent *Insider* survey (FSI 5/5/08), with some reporting growth amounts in the hundreds of thousands of dollars. ♦