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Broken trust: Prepaid funeral loss leaves Dixon family puzzled, waiting for answers

DIXON – Elder Americans have found the notion of prepaying for their funerals an appealing way to plan ahead and invest valuable funds for use in the future.

A prepaid funeral is paid for with money set aside by consumers to arrange funeral and burial services before their deaths. The money usually is placed in a trust that bears interest.

A 2007 AARP survey of 1,087 Americans 50 and older found that 23 percent had prepaid a portion of funeral and burial expenses for themselves or someone else.

One such woman is Dixon resident Oma L. Grace, who in 1994 prepaid \$6,508.94 for her funeral to Preston-Schilling Funeral Home in Dixon.

Grace, who now is 103 years old, presumed the cash deposit she paid would be used to cover the cost of funeral arrangements when her time came.

Hers is a **non-guaranteed contract**, meaning that the amount she paid does not guarantee the price for any specific goods or services. It reads: "Any funds paid under this contract are only a deposit to be applied toward the final price of the goods or services contracted for. Additional charges may be required."

Sixteen years later, Grace and her family have discovered that the reality of her situation was far different from her original intention.

On April 6 of last year, Grace received a statement in the mail from Preston-Schilling listing the total charges for her funeral – \$12,537.98.

This amount would not have been reason for alarm if the original balance on her account as of Sept. 29, 2008 – \$12,028.01 – had matched its value as of April 6, 2009 – \$8,160.35. In 7 months, the balance had decreased more than 32 percent.

In theory, prepaying protects patrons against inflation.

The following is an excerpt from pre-planning information on Preston-Schilling's Web site:

"When you finalize your plan, we can advise you of the total cost. You do not have to set aside funds for your plan, but doing so protects you against escalating funeral costs. **By locking in today's funeral costs and ensuring that the necessary funds are set aside, you help relieve yourself of unnecessary future worry and your survivors of an unexpected expense.**"

For the Graces and thousands of other families in Illinois, it did not work that way.

What went wrong?

At first, Grace's pre-need funeral funds were placed in a trust managed by the Illinois Funeral Directors Association. The IFDA trust was established more than 20 years ago as a service to association members who were authorized by state law to entrust proceeds from pre-need contracts.

For 27 years, Richard W. Schilling, sole owner and president of Preston-Schilling Funeral Home, assumed that the money was safely in a trust.

It was not until late 2007 that Schilling first learned something was not right. In a letter addressed to Schilling dated Sept. 21, 2007, he was notified by the Illinois Office of the Comptroller that IFDA Services Inc. does not qualify as a licensee or trustee under their interpretation of the Funeral or Burial Act. IFDA Services Inc. had been licensed for 27 years.

"We do not agree with the position taken by the Comptroller," the letter simply reads. It is signed by Paul G. Dixon, IFDA executive director.

The Illinois Office of the Comptroller determined that the IFDA took unauthorized and excessive fees from the trust. The comptroller issued audit findings demanding the IFDA's repayment of these amounts to the trust.

In response to questions from Sauk Valley Newspapers, a representative from the Comptroller's office wrote this: "The IFDA had questionable investments that occurred during the 1980s and 1990s, prior to the current Comptroller holding the office."

The representative said Comptroller Dan Hynes is trying to recoup \$10 million in excess fees he believes the IFDA took. Hynes is working with the state attorney general's office, the secretary of state's office, and the Illinois Department of Financial and Professional Regulation to try to get the IFDA Trust "properly regulated and protect consumers' funds."

What happened to the money Grace placed in a trust?

Grace's pre-need funeral trust changed hands on Nov. 3, 2008, to Merrill Lynch Bank and Trust. Co. The trust holds the funds of about 49,000 Illinois customers, according to a representative of the state comptroller's office.

There currently is no explicit way to directly link the money Grace prepaid for her funeral to the mismanaged IFDA trust.

The Graces are not the only family to suffer a sudden and unexpected loss. Schilling said most of the pre-need trusts he had deposited over the years were placed in trusts.

"There was never any risk in the past that funeral homes were aware of," Schilling said. "When the third party got involved, that's where the problem came from."

In response to questions by Sauk Valley Newspapers, Duane Marsh, president of the Illinois Funeral Directors Association, would say only that the matter was "under litigation." He did not respond further.

Advocating for customers

The pre-need agreement paid by the Grace family is likely among those in this misrepresented trust, said Joshua Slocum, executive director of the Funeral Consumers Alliance.

Slocum said that every state should require by law that a customer who pre-pays for a funeral be sent annual statements. The Grace family did not receive annual updates regarding their investment.

"One of the reasons why we recommend that families don't pre-pay is that it's so damn confusing," he said.

Slocum warned consumers against blindly accepting the suggestions of funeral home directors when it comes to planning for a funeral.

"This is another reason why it is a terrible idea to give a mortician money before you are dead," he added, "when the only people who recommend it are those that sell it to you."

He acknowledged the difficulties faced by a nonprofit group like the Funeral Consumers Alliance in trying to compete with what he referred to as the "15-billion-year juggernaut" that is the funeral industry.

"Sadly, most people don't hear about the dangers until they have already taken place," Slocum said.

A representative from the state comptroller's office said that state actions are ongoing against the IFDA and the entities that sold the investments to the IFDA.

Recent developments

Illinois state Rep. Dan Brady and state Rep. Robert Rita were co-chairmen of a Funeral and Burial Pre-Arrangement Investigation Task Force, which released a report last week detailing their inquiry into the pre-need funeral and burial industry in Illinois, as well as their recommendations.

The report concluded that beginning in 1987, the board of directors of the IFDA invested funds in large face-value variable life insurance policies that contain an investment component as well as a life insurance component.

The task force found that the death benefits of the life insurance policies were paid to the IFDA trust upon the death of the funeral director rather than the death of a person for whom a pre-need contract was purchased. This created a situation that hurt the cash flow of the IFDA trust because the death benefits were paid upon the death of a funeral director instead of the consumer.

The task force recommends authorizing the Illinois Department of Financial and Professional Regulation to oversee pre-need sales, and increased oversight of sellers of pre-need services and merchandise.

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