

# Funeral Monitor

News and Commentary about Death Care and Funerals

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## PREPAID CALIFORNIA FUNERALS SUFFER SHORT PAYOUTS AT NEED

### Trust deficits in the millions: state regulators out to lunch!

Most funeral homes have historically offered to accept payment for funerals at today's prices and guarantee services to be provided at an unknown time in the future. Pre-deposited funds typically have been deposited in growth trusts where earnings on the prepayment generate additional funds to cover inflation.

The (non-profit) California Funeral Directors Association (CFDA) plays a prominent role in this plan. CFDA owns the (for-profit) Funeral Directors Service Corporation (FDSC) that operates the California Master Trust (CMT). The trust is designed as a convenience to its members to legally deposit prepaid funds for funerals — either guaranteed to perform all services or not-guaranteed.

If guaranteed, the funeral director assumes responsibility to secure the client family. If not, additional funds may be required from the survivors at time of death.

California Code of Regulations/Business and Professional Code 7735 – Article 8 – Sub section I: Reporting of Preneed (funeral) funds requires: “A statement that the trustees of the trust will deliver the corpus of the trust and net income to the funeral establishment filing a certified copy of the certificate of death and evidence the funeral establishment has furnished the merchandise

and services. (Corpus of the trust means all monies paid and all securities delivered pursuant to this pre-arrangement contract.)” Does the California Master Trust recognize that the corpus is defined as *funds deposited*?

The CMT has advertised to funeral directors in promotional brochures and on the Internet the policy of conservative investments utilized by the trust managers, which mentions “certificates of deposit and other securities.” Somewhere along the line

these attractive intentions disappeared from the Internet, and no alternative plans were announced.

Many funeral homes throughout the state have routinely forwarded funds into the CMT with apparently minimal knowledge of disparities in the multi-million dollar trust. The Board of Directors of the principal California Funeral

Directors Association has been aware of disparities, but are typically re-

liant on the actions or in-

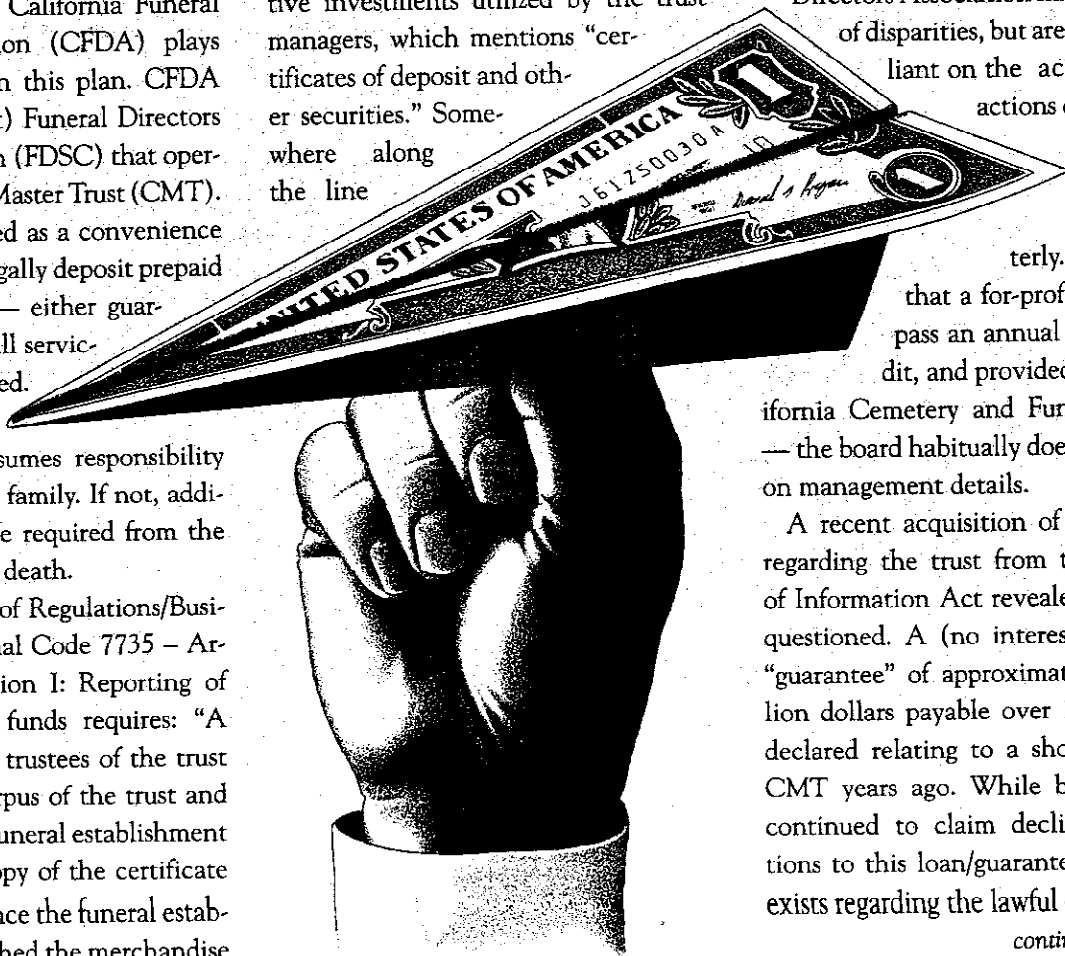
actions of the FDSC

(trust) board that meets quarterly.

Knowing that a for-profit trust must pass an annual certified audit, and provided to the California Cemetery and Funeral Bureau — the board habitually does not impose on management details.

A recent acquisition of information regarding the trust from the Freedom of Information Act revealed issues still questioned. A (no interest) “loan” or “guarantee” of approximately 9.5 million dollars payable over 15 years was declared relating to a shortfall of the CMT years ago. While board reports continued to claim declining obligations to this loan/guarantee, a mystery exists regarding the lawful corpus of the

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## Prepaid California Funerals Suffer Short Payouts at Need continued

trust on behalf of funeral directors and their clientele.

Funeral directors have previously experienced prompt payment with interest earnings overtime. Their attention, however, was generated well into the drastic downturns of the global economy when payouts were diminishing well below the corpus (initial) deposits apparently based on the trust's accounting decision to pay out each trust on "market value" rather than legally defined corpus amount plus any earnings. Market value was determined by overall current investment deficiencies applied to individual trust accounts.

Part and parcel to this saga is the governing agency of funeral service in California. The State of California Department of Consumer Affairs — Cemetery and Funeral Bureau, has historically functioned dealing with trivialities, lengthy drawn-out case files and unreasonable fines. Sadly, dedicated professionals pay fines to close cases, resulting in undeserved bureau records that imply demeaning incompetence. Government oversight of the CMT trust fund seems negligent — again appearing to be a rubber stamp acceptance of mandated certified audits to stand without review, comment or action. Constant inquiries from the CMT board and trusting funeral providers have been apparently ignored, postponed and silent on this dilemma.

Shortfalls in deposited preneed funds appear to be directly related to investment strategies of the entire trust amount. Some funeral homes have millions of dollars entrusted. Most ap-

pear to be "guaranteed" arrangements, so losses primarily rest with the funeral home, not the trusting family. The unanswered debate relates to the ability of the trust managers to invest trust funds under "prudent man" guidelines. Conversely, laws securing the "cash deposited corpus" of each arrangement against any loss to the trustor from the corpus stands. Hence, the argument — "If we can invest the trust money, and it disappears, whom do we pay upon cancellation or death and how much?"

This scenario begs the question pri-

marily for funeral providers and guaranteed prepaid plans. The gamble of money being lost, such as stock portfolio losses — warns the funeral provider of a potential risk that could easily put him or her out of business. On the other hand, families needing to disperse their cash assets to qualify for public assistance in their senior years are left without a shelter for this long-held opportunity. And what would be the motivation for the general public to place trust in arrangements where security is in question? □

## GONE TOO SOON

### The Loss of Pop Icon Michael Jackson

Billions had been expected to watch the final memorial for pop icon Michael Jackson in July — an event custom-made to be as big as life as the entertainer himself.

An estimated 1.6 million people applied for tickets to the event at the Staples Center in Los Angeles — but only 17,500 tickets were available via online lottery. Billions were expected to view the live broadcast with more watching streaming video online — in what was dubbed the world's largest funeral. The desire to get tickets to the once-in-a-lifetime (or deathtime, as it were) event was heated. According to [www.telegraph.co.uk/](http://www.telegraph.co.uk/), about 50,000 applications were received per hour (more than 800 per minute or 13 per second).

Jackson was raised Jehovah's Witness

but had recently converted to Islam, so it was unsure at press time what type of service would be conducted and if it would have any religious references.

Jackson was not allowed to rest in peace at his beloved Neverland Ranch in California. The singer's family was unable to obtain a residential exemption required for a burial on private property. Colony Capital, which purchased Neverland in 2008, tried to get an exemption for burial but could not do so in time.

At press time, Hollywood's famed Forest Lawn Cemetery — which houses the remains of many celebrities, including Gene Autry, Ed McMahon, Liberace and Lucille Ball — was discussed to be Jackson's final resting place.

Jackson was buried in a \$25,000 Batesville Promethean casket. The 14-karat gold-plated casket featured a dark blue velvet interior and a hand-polished mirror finish. He reportedly first saw this type of casket when he paid tribute to the late James Brown at his funeral in 2006. □

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