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## Funeral directors vow to fight settlement

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More than 100 funeral directors gathered Thursday in Springfield to challenge an \$18 million settlement reached between the Illinois Division of Insurance and Merrill Lynch.

The amount is a fraction of what undertakers say they've lost due to poor investments made with money paid into a pre-need funeral trust fund that has tanked.

In Thursday's meeting, lawyers and undertakers accused regulators of not doing their jobs and letting Merrill Lynch off a multi-million-dollar financial hook.

Attorneys for the funeral directors say losses in the fund are approaching \$100 million, enough to threaten some funeral homes with financial ruin.

The settlement forces funeral directors to make a choice. To get their share of the \$18 million, they must sign releases that could prevent them from suing Merrill Lynch. If they refuse to sign and lose lawsuits, they could end up with nothing.

Attorneys for the funeral directors say the trust division of Merrill Lynch, which is now administering the fund, is selling off the fund's assets to pay for funerals. That, they say, creates the possibility that the fund, which is built on life insurance policies taken out on funeral directors, could run out of money.

"There is, potentially, a liquidity problem," said state insurance director Michael McRaith, who advised funeral directors to get answers from the Illinois Funeral Directors Association, which previously administered the troubled trust. "Not all of these (life insurance) policyholders are going to die when your fine families do."

Afterward, funeral directors met at the Crowne Plaza Hotel and vowed to fight the provision that requires them to release Merrill Lynch from liability in order to collect their shares of the settlement – the largest settlement of an insurance case in Illinois history.

"Do you stand on your principles or do you take the money?" asked Jeff Dames, whose family owns funeral homes in Joliet and Morris. "We're going to hold their feet to the fire, and we're going to make them accountable."

McRaith said negotiators arrived at \$18 million as a settlement figure based on revenue and commissions the fund generated for Merrill Lynch. In response to questions from Edward Wallace, an attorney for funeral home directors, McRaith wouldn't say whether the settlement would prevent funeral directors from suing the financial giant. He advised funeral directors to consult their own lawyers.

"I'm not going to argue legal questions, and it sounds like you have a lot of them," McRaith told the crowd. "You can choose not to accept it (the settlement) if you think you can do better somewhere else."

After the meeting, Bob Wagner, counsel for the division of insurance, defended the settlement and the liability-release clause.

"It was the best ... we could do to get the \$18 million," Wagner said.

Dames and other funeral directors blame state regulators as much as Merrill Lynch for the financial mess, which festered for years before the state took action.

"The laws that are in place should have protected us," Dames said.

Bob Pluth, a Chicago attorney who represents funeral homes, said the Secretary of State's securities division in February suspended the license of Edward L. Schainker, a Merrill Lynch financial adviser who sold insurance policies to the IFDA. That was less than a month after funeral directors sued Merrill Lynch, Schainker and the association in a lawsuit that made headlines.

"They (the secretary of state's staff) read about it in the newspaper," Pluth said. "In a matter of days, they had his license suspended. They saw a problem. They understood the problem. They acted immediately. They didn't sit there and say, 'Well, it's the third anniversary.'"

Dave Druker, spokesman for secretary of state Jesse White, would neither confirm nor deny that the secretary of state's office, which regulates securities brokers, learned about the case through the media.

"I'm hesitant to say when the investigation began at this point in time," Druker said. "I can compliment you and the newspaper on good work in this case."

Dames said he and other funeral directors told the IFDA and regulators more than a year ago that the life insurance policies should be sold, regardless of losses that would have cost funeral directors \$45 million. Instead, the bleeding continued, he said.

"The outlook for what's left, ladies and gentlemen, is not good," Dames said.

Charles Fricke, a funeral home director who does business in Lincoln and Mount Pulaski, said he and other undertakers suffered due to inaction by the state.

"They've had six years to do this," Fricke said. "Every one of us had been injured, hundreds of thousands of dollars."

Tom Dean, a Pana funeral director, said losses could be as high as \$800,000 for a single funeral home. He said he figures he's losing about \$2,400 per funeral and that he would get about \$500 for each funeral if he takes the settlement.

"You need to be damn mad," Dean told his colleagues at the Crowne Plaza.