

Receiver appointed to take over funeral directors association

Prepaid funeral fund could be millions of dollars short

By [Don Walker](#) of the Journal Sentinel
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A Dane County judge on Friday appointed a receiver to take over the operations of the Wisconsin Funeral Directors Association after questions were raised about the solvency of a fund for prepaid funerals that may be \$21 million short.

The decision by Dane County Circuit Judge C. William Foust came after officials representing the state Department of Justice and the Department of Financial Institutions informed the court of problems with the fund financed by prepaid contracts of 10,500 people.

Justice officials said the customers had purchased prepaid funeral policy plans and that the trust fund has lost millions of dollars in high-risk investments.

At the same time, the Department of Financial Institutions said it had ordered a securities enforcement action after it determined the funds, which had been held in a trust, had been invested in violation of state law.

The receiver, Milwaukee attorney John Wirth, said he had ordered that the sale of prepaid funeral plans cease until "a better understanding of the group's financial position can be determined."

In a court document, state officials said the trust had been presented "as an extremely safe, conservative means by which people could set aside funds to pay for future funeral expenses." Buyers of the prepaid plans were told the money would be invested in government bonds, CDs and other low-risk investments and that they would receive a modest, guaranteed rate of return, the document states.

"In actuality, the association and the trustee treated the trust's assets as a hedge fund, improperly investing depositors' money in a portfolio of high-risk, illiquid investments," the court document states.

"The trust is largely indistinguishable from a hedge fund," said an affidavit signed by Scott Conwell, a state securities examiner who looked into the case.

Wirth said in a statement that he planned to pursue an "open and transparent process that is fact-based and focused on protecting consumers."

Wirth said that while the account should have about \$70 million, "DOJ documents indicate there is a multimillion dollar shortfall."

"This is a very challenging situation, and I view myself as a watchdog for the consumer," Wirth said. "This may take some time to determine all the facts, and we won't have all the answers right away. In the meantime, I have ordered that we immediately discontinue offering this product and not sell it until we better understand the situation."

[On its website](#), the funeral directors association said that the state alleges the "investment portfolio maintained by the Wisconsin Funeral Trust is an aggressive, high-risk selection of investments inconsistent with the trust's stated investment objective, which is to provide consumers with a low but secure rate of return of 1% more than the state's average three-year CD rate."

Under normal circumstances, families or individuals who buy a preplanned funeral pay the funeral home they are working with. The money is then turned over to the association, which is supposed to place the money in the trust account, with a promise of a small return on investment for the consumer.

The Department of Financial Institutions said the trust was currently funded through contracts that have collected approximately \$54 million in initial investor funds. "DFI alleges the current value of the trust's portfolio and other assets is approximately \$48 million, meaning the trust now holds \$6 million less than consumers initially provided to it," the funeral directors' association [reported on its website](#).

"The trust reported to the DFI that, as of July 31, 2012, it owes consumers, including the guaranteed rate of return, more than \$69 million. Thus, the trust's liabilities exceed its assets by more than \$21 million," the association said.

A Justice Department spokeswoman declined to comment when asked if the agency was conducting a criminal investigation.

Court documents say the trust was handled by Michael Hull and his brother, Patrick. "The Hulls were the investment adviser representatives for a succession of investment advisory firms retained by the trust," the court document said.

In a telephone interview Friday, Michael Hull said he had not had a chance to review the court documents, but added that he and his brother had not violated any law. Asked if he and his brother had invested in "high-risk, illiquid investments," Michael Hull said, "That doesn't sound correct to me."

Michael Hull said he had been working with the association since 1997.

While the financial issues will have to be sorted out, Wirth said he would focus his efforts on the association and not on the state's more than 500 funeral homes that work with the trust.

"While these policies were sold on a local basis by individual funeral homes, the questions that we need answered are association-related. A large number of Wisconsin's funeral homes are small businesses operated by families, and I have no reason to question their conduct. What is in question is the association operation in Madison and how the funds from these policies were managed," Wirth said.

Jeff Kleczka, vice president of the Prasser Kleczka Funeral Homes, said some of his customers had purchased the plans and paid money into the trust.

He said he was concerned about the trust, and that the funeral directors association had been aware of the unfunded liabilities.

"We will honor the commitments we made to families," Kleczka said.

Wirth said he had retained Wadsworth Whitestar Consultants, a business advisory firm in Wauwatosa. The firm specializes in helping companies involved in major financial reorganizations and potential insolvencies.

He said he hoped to recover the money as soon as possible, but said it could take time. However, the association reported on its website that "we do not believe the trust has enough money to pay all consumers all of their money."

"We cannot predict whether the receiver will be able to collect enough money to pay all consumers in full," the association said. "If all consumers cannot be paid in full, it is most likely that the consumers will receive equal proportions of their claims."

Consumers can call a toll-free line, (855) 947-9900, or email WirthFuneralReceiver [@gmail.com](mailto:WirthFuneralReceiver@gmail.com) for information.

The association said that if a person who invested in the trust dies, survivors should contact the funeral home where the funeral agreement was made and ask for the services paid for in advance. The funeral home will then apply for the deposited funds.

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