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## More NPS Executives Issue Guilty Pleas Three admit to fraud charges, One to making false statements

**ST. LOUIS, MISSOURI** – Four former employees of National Prearranged Services, including the former owner and his son, have pleaded guilty to fraud charges in U.S. District Court in a \$600 million scheme involving the sale of prearranged funeral contracts and the misappropriation of insurance premiums that were intended to fund those contracts.

At press time, the pleas entered before United States District Judge Jean C. Hamilton are:

- James “Doug” Cassity pleaded guilty to participating in a fraudulent scheme involving the sale of prearranged funeral contracts and misappropriation of insurance premiums,
- Brent Cassity also pleaded guilty to participating in a fraudulent scheme involving the sale of prearranged funeral contracts and monetary transactions involving the proceeds of that scheme.
- Randall K. Sutton pleaded guilty to participating in a fraudulent scheme involving the sale of prearranged funeral contracts and misappropriation of insurance premiums.
- Howard A. Wittner pleaded guilty to two felony counts of making false statements intended to deceive insurance regulators in connection with the acquisition and administration of Professional Liability Insurance Company of America. Wittner also pleaded guilty to willfully permitting a felon to engage in the business of insurance.

Doug Cassity, who bought NPS in 1979, faces up to 115 months in prison for his role, while Brent Cassity faces up to five years. Sutton is looking at up to 84 months in prison and Wittner from one to five years.

It is not known if restitution is part of the plea deal. According to William Stalter, a Kansas-based attorney who practices primarily in the area of deathcare, compliance and taxation, the pleas are sealed, so the public will not know for sure until the sentencing.

Both Cassitys and Sutton admitted in court that beginning as early as 1992 and continuing until 2008, NPS sold prearranged funeral contracts in several states, including Arizona, Florida, Illinois, Iowa, Kansas, Kentucky, Missouri, Oklahoma, Ohio and Tennessee. During that time, insurance companies affiliated with NPS, including Lincoln Memorial Life Insurance Company, issued life insurance policies related to those prearranged funeral contracts. As part of the contracts, the total price for funeral services and merchandise for an individual was agreed upon and that price would remain constant regardless of when the funeral services and merchandise would be needed.

Customers entering into prearranged funeral contracts would usually pay a single sum of money up front to NPS ei-

ther directly or through a funeral home that was also a party to the contract. NPS represented to individual customers, funeral homes and state regulators that funds paid by customers under the prearranged funeral contracts would be kept in a secure trust or insurance policy as required under state law.

They admitted, however, that NPS made use of funds paid by customers in ways that were inconsistent both with its prior and continuing representations and with the applicable state laws and regulations.

According to a statement from the U.S. Attorneys Office – Eastern District of Missouri, in some states, such as Illinois, insurance premiums were misappropriated before an insurance policy was issued. In other states, such as Ohio, unauthorized policy loans were taken against insurance policies owned by individual policy holders. In Missouri, NPS received withdrawals from the preneed trust of funds and assets that were required by its agreements and by the applicable state law to remain in trust. Ultimately, NPS operated as a fraudulent Ponzi-like scheme, in which customer funds were neither kept safe in bank trusts or insurance policies but instead were utilized for unauthorized purposes and the personal enrichment of NPS' officers and others.

Doug Cassity admitted that he benefited from the misuse of customer funds. He pleaded guilty to two counts of wire fraud, one count of bank fraud, one count of mail fraud, one count of money laundering and one count of misappropriation of an insurance premium.

Brent Cassity pleaded guilty to one count of mail fraud, one count of wire fraud and one count of money laundering. He also pleaded guilty to willfully permitting James Douglas Cassity, whom he knew to have been convicted of a felony involving fraud or dishonesty, to exercise significant control over NPS' affiliated insurance companies. He was employed at various times by NPS and also served as a director of Lincoln Memorial Life Insurance Company, for which NPS served as general agent. Cassity also held numerous titles with affiliated companies, including chief executive officer, chairman, president and director of Forever Enterprises Inc. and president and director of National Heritage Enterprises.

“Even preneed regulators have expressed surprise that Doug Cassity accepted a plea bargain from federal prosecutors,” said Stalter. “I have no doubt that the three remaining criminal defendants – Randall Sutton, Howard Wittner and David Wulf – were also stunned by the Cassity plea.

“In short order, Sutton and Wittner subsequently accepted plea bargains from federal prosecutors, leaving David Wulf as the lone defendant for next month's criminal trial,” Stalter said.

He added that it could only be a matter of time before Wulf also accepted a plea. “While the plea bargains allow federal prosecutors to conserve resources that would have been expended on a long and complex trial, the industry and the public are denied the opportunity to hear how these individuals perpetrated their frauds,” Stalter said. “Personally, I hoped to learn about the roles Sutton and Wulf played in the procedures established between NPS, Lincoln Memorial Life and the NPS preneed fiduciaries. It remains to be seen if the bank fraud charge pleaded to by Sutton involved his functions with the NPS preneed fiduciaries and whether that will impact the claims made against the banks named as defendants in the civil lawsuit scheduled to go to trial next year.”

At various times during the time period between 1981 and 2008, Sutton held the titles of chief financial officer, director and president of National Prearranged Services; vice president, chief executive officer and director of Lincoln Memorial Life Insurance Company; and vice president and director of Memorial Service Life Insurance Company. His duties for NPS included management responsibilities relating to operations and finances.

Sutton pleaded guilty to one count of bank fraud, one count of mail fraud, one count of money laundering and one count of misappropriation of an insurance premium.

Wittner, who served as trustee of the family trust whose holdings included National Prearranged Services Inc. and Lincoln Memorial Life Insurance Company, admitted to making multiple false statements to the New York Department of Insurance in order to obtain approval for the trust to acquire PLICA, a New York medical malpractice insurance company. The statement submitted by Wittner and others failed to disclose several material facts, including the ultimate source of the money being used to purchase PLICA and the fact that Wittner's co-defendant, Doug Cassity, would be involved with its management and operations. Wittner admitted that he knew the statement was false and intended to deceive the New York Department of Insurance so that it would approve the trust's acquisition of PLICA. Wittner also admitted to submitting an annual statement to the New York Department of Insurance that concealed the existence of numerous agreements and transactions with affiliated persons and entities that required disclosure.

Wittner served as trustee for the Cassity family trust since at least 1990. At various times during his trusteeship, he also served as a director of both NPS and PLICA and chairman of the board of directors of Forever Enterprises Inc., the parent company of Memorial Service Life Insurance Company and Lincoln Memorial Life Insurance Company.

Wittner pleaded guilty to two counts of knowingly making a materially false statement to an insurance regulatory agency for the purpose of influencing the agency's actions. Wittner also pleaded guilty to a felony count of willfully permitting Doug Cassity, whom he knew to have been convicted of a felony involving fraud or dishonesty, to exercise significant control over PLICA and NPS' affiliated insurance companies.

Sentencing for the Cassitys, Sutton and Wittner has been set for November 7.

At press time, one co-defendant, David R. Wulf, is scheduled to appear for trial starting on August 5.

### First Plea Last Month

Last month, a Cassitys' co-defendant and fellow NPS executive Sharon Nekol Province pleaded guilty to six counts of mail fraud, wire fraud and misappropriation of insurance premiums arising from the same scheme. She faces up to three years in prison for her role in one of the largest frauds ever prosecuted in the Eastern District of Missouri.

Province, who started out as an administrative secretary, rose to hold, at various times, the corporate offices of president, vice president and secretary of NPS and vice president of affiliate Lincoln Memorial Life Insurance Company. Although Province held these titles during the course of her employment with these companies, she did not hold primary decision-making authority over the operations of those businesses. At different times, Province's duties included notary work, signing authorizations, hiring and firing personnel, reconciling bank accounts, writing checks, making wire transfers and conveying procedures and operations from corporate officers or legal counsel to employees and contractors of the various companies.

"I don't know if there is any amount of sentencing that would justify the scam they ran," said David Nixon, president/partner of Nixon Consulting and Heartland Funeral Solutions, Chatham, Illinois. Nixon acknowledged that the 122 months and five years that could be doled out to James Cassity and Brent Cassity, respectively, might be on the light side unless there is ample if not full restitution involved.

"There is nothing that can be done that is going to make the situation whole, short of restitution," he said.

Nixon voiced some frustration that despite the string of preneed scandals over the past several years, lessons are not being learned. "I think we are seeing the tendency to be the ostrich – to put your head in the sand because you don't want to see it," he said. "There are not enough serious questions being asked to any great extent. [Funeral directors] are taking everything on face value as far as the worth of the company and how it is run. There is not a lot of due diligence going on with regard to where those funds are being placed.

"Some of them keep compounding the problem by investing all of the funds with one firm," he added. "That is no different than what they teach you in Investing 101 – they need to diversify. Funeral directors have a responsibility to families and to their business to make sure they don't fall into the all-eggs-in-one-basket plan."

Nixon maintained that for the most part, funeral directors have not been asking the hard questions often enough, especially when they are being told nothing but good news. "They want to believe," he said. "But any time there is money involved, there are always issues. These are not small dollars."

NPS was questioned in 2007 about its business practices by Ohio regulators. The company stopped selling preneed altogether in 2008 and was forced to liquidate later that year.