

September 14, 2012

Court Ordered Receivership of Wisconsin Funeral Trust: FAQs

What action did the Department of Financial Institutions (DFI) and the Department of Justice (DOJ) take against the Wisconsin Funeral Directors Association (WFDA)?

On September 14, 2012, the Wisconsin Department of Financial Institutions (DFI) and the Wisconsin Department of Justice (DOJ) filed an action in the Dane County Circuit Court seeking the appointment of a receiver to oversee all assets for the Wisconsin Funeral Directors Association (WFDA).

In conjunction with that, DFI has also started a securities enforcement action against some of the individuals involved in the investing activities of the Fund.

Why did DFI take this action?

Wisconsin law imposes strict limits upon the manner in which funeral trust funds are maintained and invested. DFI alleges that:

- The funds have been invested and handled in violation of Wisconsin law.
- The investment portfolio currently maintained by the Wisconsin Funeral Trust (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.
- Consumers of the Trust may not have received the interest rate they were promised regardless of the actual performance of the Trust's portfolio.
- Furthermore, by paying the claims of deceased beneficiaries at the "guaranteed" rate of return, while the Trust assets have declined in value, the Trust is paying out current obligations at an artificial rate, jeopardizing the ability of the remaining consumers to recover their original investments.
- The Trust is currently funded through so-called pre-need 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 it was initially provided by consumers.
- Further, the Trust has guaranteed a rate of return to the consumers through its crediting rate. The Trust reported to the DFI that, as of August 14, 2012, it owes consumers more than \$69 million. Thus, the Trust's liabilities exceed its assets by more than \$21.5 million.

According to data provided to DFI by the WFDA, as of August 14, 2012, a total of \$21,940,200 of Trust funds is revocable at will by the consumers. This represents more than 45% of the Trust's total assets today.

What does DFI hope to accomplish by taking this action?

DFI has petitioned the court for the appointment of a receiver because DFI feels it is necessary to help insure that:

- The assets of the Association will be able to meet the claims of the trustees.
- The rights of existing trustees to available funds are equitably adjusted.
- The available assets are not depleted by a wave of immediate claims.
- All claims and causes of action belonging to the WDFFA are evaluated and properly pursued.
- The feasibility of rehabilitating or liquidating the Trust will be independently and professionally evaluated.
- All affairs of the WDFFA are conducted for the benefit and protection of the trustees.

How many people have invested with the Trust?

Approximately 10,500

What will happen if a consumer dies and the funds invested in the Trust are needed to pay for a funeral?

The survivors of the deceased consumer should contact the funeral home where the consumer made the funeral agreement, and request that the funeral home provide the contracted service. The funeral home can then contact the Receiver to apply for the deposited funds.

What will happen if the funeral home refuses to provide the agreed upon services?

If the funeral home that received the money refuses to provide the agreed upon services, consumers should notify:

Consumer Protection Unit, Division of Legal Services
Wisconsin Department of Justice
17 W. Main St.
Madison, WI 53707

Will money be available immediately?

The Receiver must investigate the business affairs of WFDA, evaluate claims against it, try to collect all funds that may be owed to WFDA and explore the need to bring claims against those who may be responsible for losses the Trust may have incurred. This process will certainly take several months or longer. In the meantime, the Receiver will likely consider the feasibility of making some payments to consumers, even if the consumers cannot be paid in full immediately. Payments will be approved by the Court or made under some arrangement approved by the Court.

Will all consumers eventually get all their money?

At this time, we do not believe the Trust has enough money to pay all consumers all of their money. The Receiver will investigate all appropriate and reasonable ways and means of obtaining additional funds so that all consumers can be paid in full.

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

What if I have questions about this action and its impact on a family member or me?

Questions may be directed to the Receiver, John Wirth, at:

WirthFuneralReceiver@gmail.com or 855-WIS-9900*

*Number available starting 9/17/12