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INDEPENDENT REGULATORY
REVIEW COMMISSION

2605

VIA HAND DELIVERY

May 31, 2007

Michelle Smey, Chief, Business Licensing Division
State Board of Funeral Directors
P.O. Box 2649
Harrisburg, PA 17105

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BUSINESS
LICENSING DIVISION

2007 MAY 31 PM 3:38

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Re: Proposed Rulemaking to 49 Pa. Code,
Sec. 13.204 and 13.224 as well as Regulation 16a-4817

Dear Ms. Smey:

Please consider this correspondence as a supplement to our May 11, 2007, correspondence concerning the above proposed regulation.

As noted previously, the Pennsylvania Funeral Directors Association wishes to support the proposed regulation but suggest that it be strengthened even further. The Commonwealth's review of forms has been at best, nominal and should be more extensive. The current review process is really only cursory including basic criteria such as those listed in Sec. 13.204. There is neither a thorough review of the Master Trust document nor how it is inter-related to the individual pre-need trust document. This has created difficulties in the past.

Former companies and current companies have a basic form approved and yet the Master Trust document did not comply with the Funeral Directors Law, banking law or current court decisions. Two prime examples of this is where Mechem Financial had its form approved and once they told

Michelle Smey, Chief, Business Licensing Division
State Board of Funeral Directors
May 31, 2007
Page Two of Three

funeral directors they were in compliance, within a few years, \$4-\$9 million dollars was gone. Funeral directors were held responsible for making good on the funerals.

In 1998, a company named Commonwealth Partnership Trust (CPT) had a similar approach where their forms were approved by the Commonwealth. CPT Principals were convicted of stealing \$7-\$8 million of preneed funds as well. Had a more thorough review of all the documents been done, these issues may have been prevented.

There are currently programs in this Commonwealth that offer preneed to funeral directors where forms have been reviewed but violate Funeral Directors Law and perhaps securities law. As an example, there is a master trust document that allows for the loaning of preneed trust funds even though the Department of Banking has stated years ago that one cannot borrow preneed funds. This has been done in the past.

Another example is funeral directors who have taken trust monies and had them converted to life insurance policies solely for the purpose of obtaining a commission. This has been done without the consumers' knowledge or consent.

There should be more scrutiny of preneed funds and the documents that control them. Over the past 25 years, millions of dollars have been missing because of lack of enforcement and review by the Commonwealth. New statutes are not necessary. What is necessary is a more comprehensive review of the forms, perhaps by the Department of Insurance, the Securities Commission, Department of Banking and the Funeral Board, prior to approval being given.

PFDA strongly encourages the State Board to commit to a process that would provide a comprehensive review of all forms to prevent scenarios

Michelle Smey, Chief, Business Licensing Division
State Board of Funeral Directors
May 31, 2007
Page Three of Three

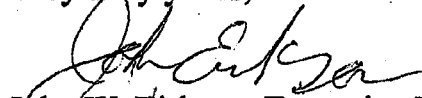
such as those that have happened historically. This process would protect consumers as well as the licensee population from unscrupulous entities.

PFDA also wishes to go on record as opposing the licensure fee increase unless the Commonwealth provides greater oversight with respect to preneed and enforcement of the current law. PFDA has advocated for years that the Commonwealth should review all forms. It should be mandatory for Banking, Insurance, Securities and the Funeral Board to sign off on such forms prior to approval.

In addition, the Commonwealth must be more attentive to enforcing statutes and regulations regarding unlicensed practice. One count Orders to Show Cause are ridiculous when dealing with companies that have operated illegally for decades. This is not in the interest of the profession or the consumer. One count Orders to Show Cause only reinforce improper behavior.

Should you have any questions, I am available at your convenience to discuss these matters.

Very truly yours,



John W. Eirkson, Executive Director
PFDA

Enclosures

c: Honorable Michael Sturla
Honorable Robert Tomlinson
Honorable Harry Readshaw