

When I was 20 years old I took a job as a salesman in a Wall Street over-the-counter firm. Because of my performance, I was made partner and eventually I became the owner of the firm. Ever since then, for most of my adult life, I have been in sales management in one form or another, sometimes being the sales manager for specific firms, and sometimes being hired as an independent contractor to lecture and/or train sales managers for larger corporations. I also started a water purification company in Dallas, Texas in 1978 which eventually went public in 1984.

In 1989, I became the sales manager for the Neptune Society in Burbank, California. My job was to hire and train sales personnel for purposes of setting up and developing a pre-need division for this 17-year old firm. Within two years, monthly sales had reached an annualized rate of \$5 million per year, and by the time I left Neptune, the trust fund had grown to \$12 million from a rather modest beginning.

I left Neptune to form my own company because Manny Weintraub, the owner of Neptune, reneged on his promise to give me equity in the company when I achieved certain goals.

To elaborate further on my background and how I reached my present circumstances, please refer to the enclosed letter written on my behalf to the Superior Court of California on January 19, 2000, along with its enclosure (part of a letter written to the Deputy Attorney General, David F. Taglienti, Esq., on September 15, 1992). It is important, I believe, to state the trust monies were used to pay company obligations and not for personal gain. I also voluntarily handed in my license when I realized I could no longer operate. I arranged to have one and then a second company handle my customers and sent letters to all customers. The state confirmed this as I actually personally paid for eight cremations well after going out of business. So obviously there never was any intent to defraud anyone.

I have given careful consideration to your investigation of abuses in the cremation industry and possible solutions, therefore, I am dividing them into four categories:

- Licensing
- Whose Ashes?
- Trust Fund Protection
- Elimination of Fraudulent Sales Pitches

- **Licensing**

The president or manager of day to day operations should be a licensed funeral director. The Neptune Society in Burbank, California has been operating 25 years without the owner holding a license or ever having taken one required test. He does, however, run the day to day operation, sign all checks, and control the trust fund. The licensee is a man who never set foot in the office in the 3 years of my employment nor did I ever speak to him. This may have changed since I left the company in December 1991, and the company received much negative publicity.

- **Whose Ashes**

When a person purchases a pre-need cremation plan, he knows that he will not be there to see that it is properly carried out. One of the things he most desires to know is that when his body is reduced to ashes, it will be his ashes that are either scattered where he designates (at sea; the finish line at a racetrack) or placed in an urn to be kept by his family. What he does not want is for somebody else's ashes, in part or in whole, to be so scattered or placed in the urn. I suggest possible precautions as follows:

- Fire proof identification bracelets be included with each policy and kept with the customer's paperwork required for cremation. When the customer dies, a family member or designee, for example, hospital or nursing home, would place the bracelet on the customer's wrist before having the body removed to the cremation. Perhaps there could be laws mandating the cremation pickup service must acknowledge receipt of bodies with such bracelets and when necessary such institutions as police morgues, hospital morgues, etc., would not release such bodies to be transported to the holding facilities until such bracelets are in place. Ultimately each of those bracelets would be attached to the urn or given to the family with the ashes.
- After the body is transported to the holding facility, the transport company would certify that it has arrived with the bracelet.
- There should be an independent observer present at all cremations to verify that the ashes correspond to the identification bracelet and that one body's ashes have been completely retrieved and been unadulterated by any co-mingling. The observer can either be a state official attached to crematoriums (e.g. to Crematorium A on Monday and Thursday, to Crematorium B on Tuesday and Friday), or officials arranged for by the pre-need company, such as members of the clergy, to go to whatever crematorium is handling their case. A tax incentive to the pre-need company might be offered, such as an additional charitable deduction for retaining members of the clergy. Since 80% of the people choose scattering at sea, a member of clergy should be present on one boat as the witness or ensure all that should be scattered is scattered. At present, in Neptune's case, the witnesses are the captain and his wife. They are also employed by Neptune.
- One of the abuses in the industry is the sale of body parts. Such an observer could verify that the complete body is being cremated.

III Trust Fund Protection

The problem is ensuring that the pre-need company puts the required money into a trust fund in a timely manner and removes it only when and for the purposes required by law. I do not believe that this can be ensured if the cremation company itself is in control of the trust monies. I suggest that:

- An independent firm be retained to do the following:
 - Categorize the income as trust money and non-trust money.
 - Verify on a quarterly basis that properly allocated trust monies have been deposited on the appropriate dates. Present law requires an annual trust fund statement. This should be submitted by an independent firm, or bank, or custodian, but not by the funeral director.
 - Send notification of such deposits to the customers.
- Direct deposits of properly allocated dividends and interest be made by the bank, or investment fund, or brokerage house to the custodian of the trust fund, who shall reinvest or distribute same as indicated.
- Annual form 1099's be sent to each subscriber reflecting the above.
- Upon the customer's death, have the trust custodian release te applicable funds to the pre-need company only after receiving a copy of the death certificate and an affidavit of cremation. Custodian should not be owner, officer or director of the funeral home or pre-need company.

- Statement of deposits and withdrawals should be sent to the state monthly.

IV **Elimination of Fraudulent Sales Pitches**

I have two suggestions for dealing with possible fraudulent sales pitches:

- Random compliance calls by a company compliance officer. I suggest each new salesman should have seven of his 21 sales followed up to ascertain what he said and what representations he made. After the first 21 sales, compliance would continue at a 10% rate.
- Enact laws making it legal for prospective customer receiving a sales pitch by telephone or in person to tape such pitch without informing the salesman. We are fast approaching the time when micro recorders will be commonly available, and the fear of such being used will cause reluctance on the part of the sales company and/or salesman to resort to chicanery in order to make a sale.
- Consider licensing all sales people.

The above appears to me the major concerns of this business. I would like to add, however, the suggestion that 100% of the monies received should not be placed in trust. To do so, of necessity forces the company to pay rent, advertising, printing, mailing, commissions, salaries, etc., out of capital, and will limit those who can go into this business to large, well established funeral companies will have no desire to offer an inexpensive alternative (cremation) to their extraordinarily profitable business.