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NEWS RELEASE

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DORA's Division of Insurance Alleges Neptune Society Used "Bait and Switch" to Lure Consumers to Purchase Pre-Need Funeral Contracts

Colorado's Commissioner of Insurance, Marcy Morrison, has ordered representatives of the Neptune Management Corporation, d.b.a. Neptune Society (Neptune) to appear at a hearing to answer charges that the company misled consumers and manipulated prepaid, preneed funeral accounts in order to skirt Colorado law and maximize profits.

An investigation by the Division of Insurance indicated that the Neptune Society was using a "package plan" offer to entice consumers to purchase a particular pre-need funeral services contract. While state law mandates that 75 percent of a pre-need funeral services contract be held in trust to protect the consumer, the Neptune Society created a plan that allowed Neptune to keep, rather than trust, more than half of the entire plan premium.

"We will not stand for businesses that ignore consumer protection laws," Morrison said. "Pre-need funeral plans are prime targets for scams because the service purchased is not provided until an unknown date far into the future."

Most pre-need funeral plans require full payment at time of purchase for funeral services, such as burial or cremation, although the purchaser does not know when, in the future, the services will be used. With funeral plans and pre-paid cremation services running thousands of dollars per contract, Colorado law provided that 75 percent of any preneed plan would be held in trust. That way, should the firm close its doors, move out of state, or no longer offer the service purchased, the consumer could still have most of the money returned in order to purchase another plan.

By reducing the amount actually trusted, through a dual-contract system, Neptune has kept approximately \$2.6 million of consumers' money that should have been protected in trust.

Allegedly, Neptune Society skirted the law by inducing consumers to purchase a "package deal" and sign two contracts: one for future funeral and/or cremation services, and a separate contract for the immediate purchase of merchandise, such as a funeral urn, at grossly inflated prices. Most of the funds from the funeral services contract were held in trust, as required, but the funds from the "merchandise" contract were not trusted.

As an example,

- One contract purchaser paid a total package price of nearly \$1,333.
- Of that amount, 55 percent of the package price (about \$700) was charged for “upfront merchandise” on a separate contract.
- Rather than place three-fourths of the entire \$1333 into trust as required by law, Neptune chose to place only 75 percent of the remaining \$610 into trust.
- This means a customer who had paid nearly \$1400 for a preneed funeral contract had less than \$560 trusted.
- In addition, the “merchandise” costs were inflated with a charge of \$349 for a funeral urn valued at approximately \$13.

The “bait-and-switch” is just one of several charges filed against the Neptune Society. Neptune must also answer charges related to:

- plan and practice to avoid compliance with preneed trusting requirements,
- violations of the general provider agreements,
- conditioning the sale of a preneed contract upon the purchase of a second contract, and,
- violation of several tenets of the Colorado Consumer Protection Act.

With approximately 5,000 pre-paid funeral accounts in Colorado, Neptune confirmed that fully 100 percent of their customers had chosen the “package deal,” which appeared to cost less than purchasing those same items individually. However, the “package deal” allowed Neptune to put as little as 35 percent of the package price in trust, thereby avoiding trusting approximately \$525 per each preneed contract. The amount that Neptune has avoided trusting is close to \$2,625,000.

The “Notice to Set” scheduling conference will be held Oct. 24, 2008, at 1:30 p.m. at the Colorado Office of Administrative Courts, 633 Seventeenth Street, Suite 1300, in Denver.

At the Oct. 24 scheduling conference, Neptune Management Corporation and the Division of Insurance may agree to engage in alternative dispute resolution, or a date for a full hearing will be set.

DORA is dedicated to preserving the integrity of the marketplace and is committed to promoting a fair and competitive business environment in Colorado.

Consumer protection is our mission.

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