

Pre-Grave Robbing

Preventing the Financial Abuse of Elders

BY GARY ALTMAN, ESQ.

The financial exploitation of elders is a shameful and growing problem in our society. What's tragic is that it is often at the hands of trusted family members, neighbors, advisors and caregivers, making it easier to get away with. The problem is only going to become more widespread as the Boomer Generation ages.

“The key thing to remember is that any power that can be used for good can be used for evil.”

According to the Department of Health and Human Services National Center on Elder Abuse, the fastest growing segment of America's population consists of those 85 and up. In 2010, there were 5.8 million people aged 85 or older. By 2050, it is projected that there will be 19 million people aged 85 or older.

What Can Be Done?

The key to protecting yourself or a loved one is three fold: Advanced planning, checks and balances, and staying connected with family, friends and advisors. Once a person is beginning to become mentally or physically unable to handle their finances and self-care, they are clearly more vulnerable to deception and what some call “pre-grave robbing”.

Advanced Planning

There are a variety estate and financial planning tools that can guard against financial abuse, *but they only work if they are done in advance and done in accordance with the law.* Setting up an irrevocable trust, for example, to hold assets is one such approach. Giving a child or other family member Power of Attorney is another commonly used approach, where an agent is appointed to make financial (and sometimes health-related) decisions in the event that the principal is unable to act on their own behalf. These techniques are only effective, however, if the people appointed are trustworthy. The key thing to remember is

that any power that can be used for good can be used for evil.

Checks & Balances

This is where checks & balances can come into play. Having Co-Trustees for Trusts and Co-agents under the Power of Attorney can offer added layers of protection. Limiting one person's power and having a second set of eyes monitoring transactions should discourage theft. Any such actions should ideally be done when an individual is fully functioning and capable of using good judgment. While you are more likely to appoint the right person when you are in fully capable, *appointing the wrong person(s) still sometimes happens.*

A Trusted Team in Regular Communication

Another cornerstone in protecting against the financial abuse of elders is to have regular contact with friends and family members and to have a trusted team of advisors in place — an estate planning attorney, financial planner, CPA and even banker. People checking in, asking questions, and taking note of any suspicious activity — curious withdrawals from accounts and ATMs, changes in wills, titles, suspicious looking checks, unusual purchases and the like. Obviously, the sooner someone can recognize the abuse, the better the chance that it can be intervened.

Financial abuse comes in many forms. Sometimes, it's at the hands of someone who is authorized to write checks on behalf of the elder. Other times, it's total strangers posing as bill collectors, charitable organizations or contractors. One of my employees lived next door to a 91 year old couple for 12 years. When the father, who had managed all of the financials and spending decisions, passed away, the wife struggled to relearn simple things, such as how to write checks and pay bills. With an adult son who is physically and

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mentally incapable of helping, their daughter, an actress in NYC, had to start making more regular visits and assisting with paying the bills and even ordering groceries online. She did so very lovingly, but her career understandably doesn't lend well to being in Maryland for long stretches of time. Fortunately, she called on other trusted family and friends to keep an eye on her Mom in the times she couldn't be there. My employee kept her eyes and ears open from next door and ended up intervening on more than one occasion: Strange men stopping by saying that they were with the fire department and coming by to collect a "promised donation". People calling and leaving notices that they were interested in buying her house. Even simple things like people

coming by offering to shovel her driveway or do yard work for some exorbitant amount. Having a connected network of caring eyes and ears sharing information is instrumental in preventing both financial and physical abuse of elders.

The Bottom Line

As they say about raising children, "It takes a village" to look after our elder loved ones as well. The same goes for those with special needs or young heirs and celebrities — who are also quite often targets for financial exploitation. Advanced planning, checks & balances, and a strong network — when used together — offer the best chance of protection.

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