

Recognizing the Warning Signs of Financial Elder Abuse

By Wayne Eig

Each year, hundreds of thousands of older persons are abused, neglected and exploited. The victims are often older, frail and vulnerable and cannot help themselves. Elder Abuse, as the Administration on Aging notes, is a term referring to “any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult.” It is a very prevalent, but often hidden, problem affecting a broad range of families and individuals and can come in a variety of different contexts, including Physical Abuse, Domestic Abuse, Sexual Abuse and Psychological Abuse. The issue of Financial Elder Abuse, a growing and frightening development, however, is not as widely reported.

In areas where there is a large concentration of elder citizens with meaningful financial means – the Washington D.C. metropolitan area is one such fertile area – this financial exploitation deserves added attention. Indicators of the size of this “market” and the importance of addressing these concerns, include:

- 40 million people in the U.S. are age 65 and older, but this number is projected to more than double to 89 million by 2050.
- Adults 50 and older own 65% of the aggregate net worth of all U.S. households (U.S. Consumer Expenditure Survey).
- National statistics show that the 55+ age group controls more than three-fourths (75+%) of America’s wealth (ICSC).

By identifying situations where Financial Elder Abuse may exist, individuals can be better informed and prepared to identify and prevent such abuse by implementing protections, and pursuing remedies should such abuse already be present to mitigate and stop further exploitation.

RECOGNIZING FINANCIAL ELDER ABUSE

Research from Adult Protective Services (APS) found that elder financial exploitation is widespread, expensive, even deadly. Financial Elder Abuse comes in a variety of different contexts, including the illegal taking, misuse or concealment of funds, property or assets of a senior for someone else’s benefit. There are many illegal scams and confidence crimes, yet public resources to attack and prosecute them are very limited. Even more prevalent in our experience, and certainly just as frightening, are the more subtle situations where one or more individuals simply take money, forge signatures or use property without permission. Perpetrators often promise long-term or life-long care in exchange for things often not understood by the senior, an increasingly used scheme.

IDENTIFYING THE PREDATORS

So who are these perpetrators, or perhaps more accurately, these predators? As APS notes, 90% of abusers are family members or trusted others, including those who:

- Themselves often have abuse or addiction issues;
- Feel some sense of current entitlement to the senior family member’s wealth;
- Are especially concerned about a senior family member’s wealth being consumed by ongoing care costs; and/or
- Who have “issues” with the senior family member or other siblings or family members of the same generation as the perpetrator.

In the case of non-family predators, there are also those who often:

- Identify and prey on vulnerable persons;
- Profess love and affection for the senior;

- Purport to protect the senior from the jealousies or greed of family members; and/or
- Offer services to assist the senior.

The existence of these types of family or non-family situations should provide warning signs to others for the need to monitor matters closely. Two fundamental problems in identifying – and then addressing – such abuse are that this abuse comes in such a variety of forms, and in many cases, develops or matures over an extended period of time.

FINANCIAL ELDER ABUSE INDICATORS

The most important action which should be undertaken is to be alert and to develop a system to identify whether Financial Elder Abuse – inside the family or outside of it – is taking place. In many circumstances, this action, if diligently pursued early on, can have a preventive impact, as well as one which attempts to remedy existing instances of abuse. In our experience, indicators of financial abuse include:

- Unusual activity in the senior's financial accounts, especially bank and securities accounts.
- Addition of family member/caregiver as signatory on such accounts.
- Withdrawals/transfers from such accounts, which the senior can not explain.
- Frequent, unexpected and/or unusual changes in the senior's legal documents such as powers of attorney, medical directives, will and trusts, and beneficiary designations for the senior's life insurance and/or retirement accounts.
- Absence of adequate documentation or explanation for certain transactions.
- Other belongings or property are missing.

This listing is by no means complete, but it does suggest an agenda or outline to begin to monitor such concerns, an especially important undertaking since much of this type of Financial Elder Abuse is simply never detected. If you suspect abuse, consult with trusted family members, caregivers, doctors, bankers, accountants and family law and/or estate planning attorneys. Often others may see trouble signs before you do or can bring “red flags” to your attention. However, if the perpetrator is among these classes of individuals, you may want to exercise caution in confronting the individual and/or accusing him/her directly, as this may lead to retaliation against the senior.

CHANGES TO MARYLAND LAW

Although public resources to attack Financial Elder Abuse are still in their infancy, on May 5, 2014, the Maryland Governor approved HB0723 (Money Transmission – Protection From Financial Abuse, Financial Exploitation, and Fraud – Requirements) requiring a person engaged in the business of money transmission to provide (a) specified training materials to agents annually on how to recognize financial abuse and financial exploitation of elder adults and how to respond appropriately to specified circumstances, (b) specified materials to newly appointed agents within one month of the agent's appointment, and also (c) requiring such person to include a clear, concise, and conspicuous fraud warning on certain transmittal forms used to send money. The effective date of this promising legislation is October 1, 2014. However, to combat Financial Elder Abuse, persons engaged in the business of money transmission, subject to HB0723, will still rely on trusted family members, caregivers, doctors, bankers, accountants and family law and/or estate planning attorneys who may be better positioned to identify the “red flags” of abusive situations.

Wayne D. Eig, Principal with Paley Rothman and a member of the firm's Estate & Trust Administration, Estate Planning, Tax, and Corporate practices, has extensive experience assisting clients with highly sensitive and difficult undertakings to ensure they have the necessary protections in place for themselves and their families. If you suspect Financial Elder Abuse is taking place and have questions, contact Wayne at (301) 951-9352.

Allison L. Lee, former Associate with Paley Rothman and a member of the firm's Estate & Trust Administration, Estate Planning, Tax, and Corporate practices, has experience advocating for her senior clients with care, compassion and understanding and working with family members who suspect Financial Elder Abuse. If you suspect Financial Elder Abuse is taking place and have questions, contact Allison at (301) 951-9365.

Additional Resources:
 Administration of Aging
 National Center on Elder Abuse
 National Adult Protective Services Association
 Consumer Financial Protection Bureau's Office for Older Americans