

IDENTIFYING AND RESOLVING ELDER FINANCIAL ABUSE

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Introduction

- Forensic Accountant and Certified Fraud Examiner
- 20 years general accounting experience (tax, audit, bookkeeping, controller, etc)
- 13 years forensic and fiduciary accounting experience at Stagg Fiduciary Services (specializing in elder financial abuse and disability financial abuse cases)
- Salt Lake Community College – business and accounting
- Brigham Young University – business and economics

OBJECTIVES

1. Identifying potential elder abuse financial fraud
2. Responsibilities and strategies to intervene in financial elder abuse
3. Avoiding financial elder abuse

IDENTIFYING POTENTIAL ELDER ABUSE FRAUD

Sample Cases

Case 1

Jenny

background

- Minor child disabled in an accident
- Lump sum settlement from workers compensation
- Settlement funds put into a Special Needs Trust
- Parent was made the trustee

- Trustee comingled funds
- Trustee did not track usage of funds
- Trustee failed to provide accountings
- Trustee could not prove that funds were being used for the benefit of the beneficiary

CASE 1

JENNY

THE
FACTS

- Beneficiary noticed that something was wrong, but could not explain it or understand it
- Beneficiary requested a new Social Security Rep Payee
- SSA Rep Payee was unable to obtain accountings nor an explanation of how funds were being used
- SSA Rep Payee initiated action in the probate court

CASE 1

JENNY

DISCOVERY

- Probate court appointed a new trustee
- Court ordered 3 year forensic accounting
- Court ruled that funds were misused and comingled
- “Jenny” ordered to repay the funds
- Lien filed against property

CASE 1

JENNY

RESOLUTION

Case 2

Albert

background

- Elderly woman with significant assets
- Victim has no close family
- Victim begins to decline physically and mentally: seeks assistance
- Attorney, Albert, gets involved with “estate planning”
- Albert begins to assist victim in other ways (caregiving, home maintenance, bill pay)

- Albert asserts himself into estate planning documents (POA, trustee, etc)
- Albert takes over all aspects of victim's financial life
- Albert hires caregivers

CASE 2

ALBERT

THE
FACTS

- Caregiver notices odd spending patterns by attorney
- Victim's nieces (only living relatives) visit from out of state
- Caregiver confides concerns to the nieces
- Nieces observe bank mail while visiting aunt and discover odd financial transactions
- Nieces hire a different probate attorney

CASE 2

ALBERT

DISCOVERY

- New attorney gets a capacity evaluation
- Court appoints guardian and conservator
- Court orders 3 year forensic accounting
- Court removes original attorney from all financial authority, but does not rule criminal misuse
- New attorney files complaint at the Utah Bar Association
- Utah Bar Association investigates and disbars the original attorney

CASE 2

ALBERT

RESOLUTION

RESPONSIBILITIES AND
STRATEGIES TO
INTERVENE IN
FINANCIAL ELDER
ABUSE

Responsibilities and Strategies

- Be observant
- Question
- Report
- Continue to observe

(Utah law 62A-3-305)

Observe

Elder abuse financial fraud is most commonly discovered when CHANGES in behavior are observed.

Observation needs to occur over a span of time.

Question

Don't be afraid to question things that don't make sense

Seniors often exhibit odd behavior and have the right to do so. It's okay to be quirky and spend money in ways that don't make sense to caregivers (gambling example)

Question the person, question others, question yourself. Try to get them to explain it to you.

Over TIME, you will develop a feel for things that are out of place

Report

Utah Code 62A-3-305

If an individual has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective Services or to the nearest peace officer or law enforcement agency.

Continue to Observe

Adult Protective Services and the police often cannot take action unless a pattern of abuse is established. Don't be discouraged if your report to them appears to you to go nowhere initially. They are often in evidence gathering mode.

Continue to observe and continue to report.
Consult with family members (comply with HIPAA)

AVOIDING FINANCIAL ELDER ABUSE

OPPORTUNITY: Is the person (or you) in a position of trust?

PRESSURE: Does a person have financial pressures that they perceive they cannot resolve?

RATIONALIZATION: Is there a perception of lots of funds? Is there a perception that nobody is watching?



Donald R. Cressey, *Other People's Money* (Montclair: Patterson Smith, 1973)

Avoiding
Financial
Elder Abuse

**THE
FRAUD
TRIANGLE**

When a person ages and/or declines, privacy and transparency should be adjusted.

Family should all see what's going on

- Duplicate statements
- Communication
- Third parties

Remember the “Rationalization” leg of the fraud triangle

Avoiding
Financial
Elder Abuse

Transparency

IDENTIFYING AND RESOLVING ELDER
FINANCIAL ABUSE

QUESTIONS?

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