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## ELDER ABUSE IN 2011

The incidence of elder abuse is on the rise. We cannot be too careful in protecting the people we love from the possibility of elder abuse. It can happen to anyone, and in times of economic downturn, people become even more desperate. The best protection against elder abuse is vigilance. Be sure you know what is going on in your parents' home, and don't assume that everyone is a "good guy."

### SOURCES OF ABUSE

Within the family

1) Adult children: There are many unemployed adult children who are moving home to "take care of" mom and dad. Often this will lead to the child being added on to bank accounts, or telling their siblings that mom and dad want them to have the house because of what they have done for them. If the family agrees that a child would be the best caregiver for Mom or Dad, then create a caregiver contract, and set the terms of the relationship in writing. It may be best for a different child to handle the family finances, rather than the child who is the caregiver.

We frequently see abusive situations occur after one spouse has died. The surviving spouse may or may not be the person who handled the family finances. Often the surviving spouse is very lonely, and may welcome having one of the children come home. I have handled three cases involving men whose wives passed away. In each case, a family member (daughter) offered to "help dad", and ended up taking dad's money. We will often hear things like "But Dad told me it was okay." or "Dad really wanted me to have that." Some of the symptoms of elder abuse will be that the family member who is the abuser will isolate the person they are abusing from other family members. The abuser will refuse to discuss what they are doing, and tell everyone that it's none of their business. The abuser will take Mom or Dad to another attorney to have all of their papers re-drawn. This is very upsetting to the rest of the family, and often results in family disintegration.

2) Spouse: This does not happen often, but we have a lot of second marriages today. If one of the spouses becomes incapacitated, the other spouse's children might see an opportunity to put all of the assets into the name of the well spouse. There are many situations where this is desirable in order to qualify for benefits (e.g. Medi-Cal), but you need to make sure that all of the family members understand what is being done, and why. We have also seen cases where the child of one of the spouses swoops in and has Mom change all of her documents, so that her assets go to the child instead of the spouse.

#### SOURCES OF ABUSE

##### Outside the family

3) Trustee: It can happen that a trustee may be someone who is not quite up to our standards in terms of trust. A trustee has full control over trust assets, and often is not required to provide an accounting. If mom is incapacitated, the trustee may take all of the assets, and leave mom penniless. If no one knows this has happened, it may be too late to take action in court. As a trustee, the person is liable for what is called "breach of fiduciary duty," and the courts can impose punitive damages. But these cases take a long time, and the trustee (who has all of the money), will use the trust assets to defend any legal action.

4) Salespeople: The senior generation is very trusting, and will talk to almost anyone. They will let strangers into their homes, and will sign contracts with people they have never met before. Be sure that you warn seniors NOT to let strangers come into their homes. Once they get on a "sucker list", they will be contacted by every unscrupulous contractor in the area.

5) Lotteries: There are numerous "lotteries" which promise to make people very rich. The latest scam involves delivery of the "check", for which the delivery agent will require a fee in the form of a cashier's check. Of course the check being delivered is not real, but the check that was given to the delivery agent was very real.

6) Caregivers: Caregivers, whether family members or not, have a way of endearing themselves to the seniors. The seniors, who are very appreciative, will try to find a way to repay the caregiver. It is best not to leave anything of value in the home, if you are bringing in an outside caregiver. Never hire an outside caregiver unless you are hiring a person who is licensed and bonded. If a family member is a caregiver, be sure that he or she is not the person with control over the bank accounts.

7) Family friend: There have been a number of cases recently where a family friend has offered to handle the finances, or invest money for a senior. There are many sad stories of people who have "lost everything" with the downturn in the economy. But the sadder

stories are of the people who gave away their money to a trusted advisor (Madoff) or CPA, because they believed that person genuinely wanted to help them make money. Do your homework before you give your money to anyone!

8) Bad brokers, and other dishonest “professionals”: It happens because there are good and bad people in every profession. Financial advisors are supposed to be supervised, but there are good ones and bad ones. If there are sudden, and unexplained, losses to the family finances, it can be devastating. Be sure to find out whether this was the result of market conditions or inappropriate investments. Brokers can also buy and sell excessively to generate fees, and tell the client “oh, the market is down.” Don’t accept this at face value. Get a second opinion.