

The Law and You

Financial Exploitation of Elderly Persons

Four years ago I wrote about a new law concerning abuse, neglect and exploitation of elderly persons. It was hoped that the new law would result in civil and criminal prosecutions. That has not happened.

The authorities are not going after these cases because they are deemed “too tough” and there are “too many other cases.”

For example, I obtained a civil judgment against the son of an elderly adult who was in a care center. My case file was provided to the authorities but no prosecution took place.

Let me relate a recent incident of abuse and financial exploitation that shows how blatant these cases can be.

An elderly lady in her 80's with dementia was being cared for by a live-in female. For the purposes of this story, let's call the elderly lady Molly, and the live-in caretaker Lola.

Lola had two children that we will call Polly and Sam. Polly took control of Molly's financial affairs. Sam used Molly's funds to buy for his personal use a brand new minivan, riding lawn mower, and the mobile home in which he resides.

Lola's health began to fail and Polly realized that her mother's caretaker role might soon end. So, Polly aggressively influenced Molly to liquidate all of her retirement accounts, annuities, and insurance policies. The proceeds were deposited in a new bank account where Polly made sure that an ATM/Debit Card was issued to Molly.

Earlier, Polly and Sam had Molly withdraw more than \$50,000 to purchase the minivan that Sam drove and other things for Sam and Polly that have not yet been identified.

Then last December, Polly went on a major spending spree. Polly used Molly's ATM/Debit Card to withdraw or spend more than \$44,000 during a three-month period.

Polly purchased a new washer and dryer for more than \$3,000. She purchased televisions, computers, furniture and other home electronic items for many thousands of dollars from each of the following stores: RC Willey, Best Buy, Circuit City, Costco, Lowes, and the Maytag Store.

Polly also had Molly sign checks for Polly's rent and a \$5,000 tuition check for Polly's son. Other checks were made payable to “cash” or to Polly in various amounts including one in the amount of \$10,000.

During this same period of time, Molly's only child tried to visit his mother but Lola and Polly kept him away.

Under the law,

"isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person by:

(A) preventing the vulnerable adult from receiving visitors, mail, or telephone calls, contrary to the express wishes of the vulnerable adult, including communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

....

or

(C) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

Lola, Polly and Sam engaged in a concerted effort to isolate Molly from her son and also poisoned her mind with hate toward her son.

Fortunately, the son came to me for help and we quickly had the son appointed as Molly's guardian and conservator.

Molly's son found that only \$37 remained in Molly's bank account. He also discovered that Polly and Sam had taken more than \$144,00 from his mother.

Since Molly has severe dementia and other ailments that prevent her from being left alone, she is now in a long-term care facility. The son has applied for Medicaid assistance because Molly's funds are gone.

Hopefully, the District Attorney will prosecute Polly and Sam for their financial exploitation of Molly. Lola died two months ago, so she can't be prosecuted.

I will add one final note to this sad story. After the guardianship hearing at the courthouse, Polly drove directly to a title loan company where she had Molly apply for a \$7,500 loan against the title to the van. Polly took the money. This was done less than an hour after the court found Molly incapacitated and appointed her son guardian and conservator!

If you suspect an elderly adult is being abused or exploited, you should contact APS, or Adult protective Services, at 264-7669 in Salt Lake County or 800 371-7897 elsewhere. You might also contact an Elder Law Attorney who specializes in guardianships and conservatorships—particularly where exploitation exists.