

Elders are targeted for fraud and financial abuse, say panelists

By Diane Curtis_Staff Writer

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It's a scenario heard frequently by elder abuse experts. The son (or daughter) who has been given power of attorney starts cutting back on his mother's expenditures even though she has enough money to continue living as she had been. He decides where she lives and who she sees. He sells some of her favorite possessions. And as her on-hand cash declines, his swells. At the same time, new codicils to her will reduce the amount she had originally left to others and increase the amount for him.

Although familiar to prosecutors, Adult Protective Services officials and others involved with seniors, such cases illustrating the rising crime of financial elder abuse rarely make front-page headlines around the world. One recent case was different because the centenarian mother was socialite Brooke Astor, the *grande dame* New York philanthropist said to be worth almost \$200 million whose friends included such international movers and shakers as Barbara Walters, Henry Kissinger, the Oscar de la Rentas and David Rockefeller.

Unintentionally, says her grandson Philip Marshall, Brooke Astor's greatest legacy may be as someone who raised awareness of elder abuse. Last October, when he was 85 years old, Astor's son (and Philip's father), Anthony Marshall, was convicted on 14 of 16 charges that included grand larceny, criminal possession of stolen property, forgery, scheming to defraud, falsifying business records, offering a false instrument for filing and conspiracy. He was sentenced to one to three years in prison, and the case is on appeal. Astor died in 2007 at age 105. She had been diagnosed with Alzheimer's in 2000, and in 2002 Philip Marshall, a professor of architectural preservation in Rhode Island, became concerned that his father might be taking advantage of Astor's frail, confused state. The first hint was the missing \$10 million painting, "Flags, Fifth Avenue" by artist Childe Hassam, which Astor had initially promised to the Metropolitan Museum of Art. Anthony Marshall sold the painting, reportedly with Astor's agreement because he had told her they needed the money, and then pocketed a \$2 million fee for himself.

Philip Marshall was the keynote speaker recently at an all-day "Call to Action" in San Francisco hosted by the Elder Financial Protection Network. He said it was the first time since the December conviction of his father that he had spoken publicly about the case and his attempts to intervene in the care — or lack of it — his father was providing Brooke Astor. "All it takes for elder abuse to flourish is for family and friends to do nothing," he said, noting that difficult as it was to go against his father, he felt he had no choice.

After Philip Marshall noticed the missing painting, he started paying more attention to what was happening at Astor's Park Avenue duplex. Staff also took him aside, telling him that his grandmother was being denied access to medication and doctor's visits as well as to her beloved dogs and some of her friends. In order to save money, her son was even changing the products she had been buying for decades, staffers said. In addition, Anthony Marshall, a theatrical producer, fired the chauffeur, the butler and Astor's lawyer of 50 years and closed her New York country house, Holly Hill, where she had said she wanted to die. Philip took note and started keeping records of the reports. It was not until 2006 that he sought out Rockefeller and Annette de la Renta to help get better care for his grandmother. They hired a law firm that filed Philip's petition seeking a guardian to care for his grandmother. Before the case went to court, Anthony agreed that de la Renta could take over as guardian and he agreed to return \$11 million in money, jewelry and art.

It wasn't just that his grandmother's money was being taken by his father, Philip says. "If my father and his wife had simply taken money and property of hers but provided for my grandmother, this story might be different." But the greed of his father, he added, came at

a psychological and physical cost to his grandmother who was increasingly confused, frightened and in declining health. And she didn't understand why her staff, including her loyal, long-time butler, had disappeared. She assumed he must have died.

Elizabeth Loewy, the assistant district attorney who prosecuted the criminal case against Anthony Marshall, told the conference that while the Astor case may be unusual in its celebrity and amount of money at stake, it typifies what is a skyrocketing threat against elders — financial exploitation. Jenefer Duane, founder and CEO of the San Francisco-based Elder Financial Protection Network (EFPN), concurred. “In today’s economic climate, elders are at greater risk than ever of being targeted for fraud and financial abuse,” she said.

According to a recent Metropolitan Life study, “Broken Trust: Elders, Family and Finances,” seniors lose \$2.6 billion a year to financial abuse. And for every known case of abuse, it is estimated that four or five cases may go unreported. Typically, those who exploit the seniors are not strangers and the exploitation and abuse can come in many forms: fraud, scams (on the Internet and off), undue influence, abuse of powers of attorney and guardianship, identity theft, failure to fulfill contracted health care services and Medicare and Medicaid fraud. Financial abuse of elders is the third most commonly substantiated type of elder abuse, according to the report, following neglect and emotional and psychological abuse. “And the problem appears to be growing,” the report states.

“Raising awareness is key to confronting the problem of elder financial abuse, and I hope the visibility my grandmother gave to the issue becomes her lasting legacy,” said Philip Marshall.

How elders can avoid scams

There was no shortage of horror stories at the Elder Financial Protection Network’s 6th Annual Call to Action event in San Francisco:

- A young man sells a 75-year-old woman an expensive vacuum cleaner and comes back weeks later and asks to use the phone. He ties her up with duct tape, stuffs her in her own car, beats her repeatedly, makes charges on her credit card during her 26 hours in the trunk and has plans to kill her. She is found when an alert sheriff’s deputy follows the car and stops it for running a red light.
- A Las Vegas waitress befriends an elderly customer and then tells him the sad tale of her life. The customer gives her a \$500 check. In conversation, she also gets his date of birth and his Social Security number. Eventually, she gets \$750,000 through use of the identifying information she has coaxed out of him.
- A caregiver starts out working at a house a couple of hours a day and then says he could give better care by moving in. He gains the homeowner’s trust by cooking, cleaning, taking care of whatever needs doing. Eventually — in this case, it was several years — he controls the finances, takes title to the house and cleans out the bank accounts.

“It can happen to all of us,” says Cynthia Healy, president and founder of Security Financial Advisors Inc. in Monterey. She’d like seniors to remember the acronym, SCAM:

S — Surround yourself with family and friends. Do not isolate yourself.

C — Caregivers. Do your own checks of caregivers even if they come from an agency.

A — Ask for assistance from professionals such as accountants, attorneys, bankers, doctors. Build a team so there are checks and balances.

M — Maintain security over your personal information.

Paul Greenwood, head of Elder Abuse Prosecutions for the San Diego District Attorney’s Office, successfully prosecuted the young man who kidnapped the 75-year-old woman on charges of attempted murder, torture and kidnapping. An international speaker on elder abuse, he offers 10 tips for avoiding financial elder abuse:

- Choose a caregiver with caution and make your own checks even if the caregiver

- comes from an agency.
- Keep an inventory of all jewelry.
- Use a shredder for everything with your name, address or any other identifying information on it.
- Protect your incoming and outgoing mail.
- Do a credit search on yourself at least two or three times a year.
- Install caller I.D. to determine if a call is private or unknown and don't be afraid to hang up or use a whistle you keep by the phone.
- Remember: You will never, ever win a foreign lottery.
- Consider letting your bank send a duplicate of your monthly statement to a trusted family member or an accountant or attorney.
- Don't assume that people doing work on your home are licensed. Check and also get three estimates in writing and a written contract.
- Have a second line of defense, such as a locked screen door or a security chain guard, at your front door.
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Elder abuse — a silent crime

By Helen Karr

Our nation's population is aging — the 65 and over segment is projected to increase from 25 million (12.4 percent) to more than 71 million (19.6 percent) by 2030. In California, one in four persons will be 65 and older by 2030. And, this population is being abused. Elder abuse is called the crime of the 21st century. It is a silent crime. It is an evil crime. And it is rampant. According to a U.S. Senate Special Committee on Aging report, up to 5 million (14 percent) of those 65 and older are abused annually in this nation. In California, elder abuse tops burglary and auto theft as the most frequent crimes; an elder is abused at a rate of more than one every two minutes. And while the number of violent crimes is declining, elder abuse is on the rise.

All 50 states have enacted legislation that authorizes the protection and provision of services for vulnerable, incapacitated or disabled adults through various reporting systems similar to those covered by child abuse laws. Consequently, the inclusion of elder abuse within the family violence framework transformed it into a public health and criminal justice issue. There are four common kinds of elder abuse:

- Physical: hitting, pushing, sexually molesting, forced confinement in a room, bed or chair, over-medication;
- Emotional/psychological: humiliating, insulting, name-calling or threatening;
- Neglect: withholding food or medical attention or leaving a senior in an unsafe or isolated place; and
- Financial: withholding money, forcing an elder to sell personal property, embezzling, forging or stealing an older person's money or possessions, and misusing Power of Attorney.

Elder financial abuse is widespread and happens to the very rich, the not so rich and the poor. A 2009 Metlife study found that elders lose \$2.6 billion every year from financial exploitation. Financial abuse can be life-threatening since the abuser confiscates assets essential to the health and welfare of the older person. It threatens the economic security and lives of millions of Americans. According to the Journal of the American Medical Association, elders who are victims of abuse have a mortality rate three times higher than those who are not victims. Once their money for housing, food, medical care and medicine is gone, elders lose their livelihood and ability to live independently. Elder financial abuse is almost always linked to other forms of abuse.

California recognized the crime of elder physical abuse in 1983, and in 1998 added theft and embezzlement as elder abuse crimes. In 2004, forgery, fraud and identity theft were included. In 2005, California declared May as Elder and Dependent Adult Awareness Month every year. By 2007, financial institutions were mandated to report suspected

financial abuse.

Physicians and other health care professionals, law enforcement, social workers and professionals who work with seniors, clergy and animal control officers are required in California to report any form of elder or dependent adult abuse to the local Adult Protective Services and/or law enforcement. Officers and employees of financial institutions are mandated to report financial abuse. But elder abuse is under-recognized because an elderly person might not be aware he or she is a victim of theft or neglect and stays silent. He or she may be too embarrassed or ashamed to report, might feel responsible for the abuse, could fear not being believed, afraid of the abuse, and does not know where or how to report abuse. Mandated reporters need training and the public needs education about the seriousness of abuse.

Elder abuse also is under-prosecuted because it must be reported before it can be investigated. And it must be investigated before it can be prosecuted. It can be stopped. The law encourages everyone to report known or suspicious elder or dependent adult abuse. Call Adult Protective Services. Remember the words of the Rev. Martin Luther King: "To ignore evil is to be an accomplice to evil."

Helen Karr is a director of the Elder Financial Protection Network and a senior citizen advocate at the local, state and national level.