



ELDER FINANCIAL ABUSE: *Know the Red Flags*



When discussing housing trends, the conversation quickly turns to how Millennials will affect the future of the real estate market. An area of concern not widely discussed, however, is the country's aging population, which fuels the need to recognize and prevent financial exploitation of older clients and family members. Highlighting the concern, the Consumer Financial Protection Bureau (CFPB) issued an advisory last year on how to prevent elder financial exploitation. It's critical the industry be alert to financial elder abuse and recognize the red flags.

Elder financial abuse refers to a broad range of behaviors, including taking money or property, forging an older person's signature, coercing or unduly influencing an older person to sign a financial document and defrauding or scamming money from an older person.

The population of people aged 65 and over is expected to reach nearly 75 million, or one fifth of the total population by 2030, according to analysis of Census Bureau data. Even though financial exploitation of elders is growing fast and is a common form of abuse of the elderly, it is often unreported or undetected. According to a report from True Link Financial, estimated losses from elder abuse range from \$2.9 billion to \$36.9 billion a year.

Wealthy Targets

Older people are attractive targets because they may have accumulated assets or equity in their homes and usually have a regular source of income such as Social Security or a pension. These consumers may be especially vulnerable due to isolation, cognitive decline, physical disability, health problems, and/or the recent loss of a partner, family member or friend.

There are three main categories of abusers targeting elders:

1. *Family Members, specifically adult children and grandchildren (20 percent daughters, 24 percent sons).*
2. *Professional Criminals such as home repair scammers and telemarketers.*
3. *Friends or others in a position of trust. This group could include attorneys, bank employees, caretakers and pastors.*

Abuse of Legal Authority

The abuse of legal authority occurs when a person with the legal authority to act on behalf of another misuses that power. As fiduciaries, they must act on behalf of the person in that person's best interests. They are charged with preserving assets, using them wisely and for the benefit of the person. Failure to do so is a violation of that fiduciary duty, and may be a crime.

While powers of attorney are legal and binding, and must be acknowledged as such when appropriate, they can be both wide ranging and narrow in scope. It is important to always review the power of attorney and make sure the act it is proposing is within the limitations of the actual power. A power of attorney to sign the purchase contract and/or escrow instructions for the sale of a house does not—without more documentation—mean the holder can sign the deed.

While a court-ordered appointment as a guardian or conservator is perceived as a more protected status, it can be abused as well—and it is not a license to steal the assets of the incapacitated person.

Transfer of Title

An example is a forgery of the owner's signature on a deed or mortgage. The conveyancing practice of requiring that the person signing the document appear in person before the notary public taking the acknowledgment is intended to make forgery more burdensome, but it is not impossible. Perhaps harder to determine, especially in the case of elder abuse, is whether the owner is signing without true consent. To establish actual or legal consent to an act, the person must have the ability—mental capacity—to act.

In the case of undue influence, the person may have all of the components to give consent, but be acting against their own interests due to fear or dependency. Every state has specific requirements on reporting elder abuse. As a general rule, the primary entity responsible for reporting elder abuse is the lender. In most instances, a lender will explain any responsibility in its closing instructions. In the context of a real estate closing, the settlement agent, in conjunction with information from the title report, is the 'eyes and ears' of the financial institution and plays a critical part.

Suspect Abuse?

Find your state's [Adult Protective Services](http://www.napsa-now.org/get-help/help-in-your-area/) (http://www.napsa-now.org/get-help/help-in-your-area/) or contact the [Eldercare Locator](http://www.eldercare.gov/Eldercare.NET/Public/Index.aspx) (http://www.eldercare.gov/Eldercare.NET/Public/Index.aspx) online or at 1-800-677-1116. If someone is in immediate danger, please call 911 or the local police for help.