

THE ELDER LAW VOICE

THIRD QUARTER 2004

KNOWING WHAT THE CON GAME IS: DETECTING ELDER EXPLOITATION AND STOPPING IT

Older adults are often the victims of con artists and their con games. A con game is the illegal attempt to swindle or separate money, property or other valuables by deception and trickery. A con artist may pose as a bank examiner, requesting a withdrawal of money from a bank account that is "temporarily" turned over to the imposter as part of a test the bank is conducting to uncover a dishonest bank employee.

Illustration

At 80 something, Mary looks much younger. She is currently enjoying excellent memory and good health that allows her to live independently in her own home. Although recently, Mary has had more of those so-called "senior moments" than she cares to admit. In fact, she does not care to admit it to anyone just yet. Mary does not want anything to interfere with her very active life in which she commits many hours of volunteer work for elderly consumer groups. In these different groups, Mary has often listened to talks about elder abuse and fraud. Although, Mary is sure that it would never happen to her.

Just last week, however, Mary answered the doorbell and standing there was a young man dressed in a suit and tie, holding a briefcase. He announced himself as Dennis Smith and offered identification in the form of a business card that had his name on it with Mary's bank. Dennis asked Mary if she remembered his telephone conversation with her some time ago. Not wanting to be caught in another "senior moment," Mary assured him that she remembered and invited him into her home for cookies and lemonade.

Dennis then went into a long story about how Mary's bank account had been illegally accessed and almost all of her money had been removed. He further explained that all of the money had been saved, but they needed her help to catch the culprit. Mary said she'd do

anything to help. With the con game working beautifully, Dennis told Mary that from then on everything was to be maintained in secret. Then he insisted on Mary immediately going to her branch office and withdrawing most of the funds in a certified check while he waited at her home. This was supposed to flush the embezzler out into the open. Mary did as instructed.



It is not necessary that the deception or swindle be figured out, whether it is the bank imposter or some other character. In this and similar situations, what is necessary is to abide by one simple rule that should never be broken - NO MATTER WHAT – never withdraw money from an account on the instruction or suggestion of a stranger. In the illustration, Mary should have told Dennis that she was calling the bank to verify who he was. Had she done that, Dennis would have left or given her an excuse for why no one at the bank could be contacted. At that point, Mary would have known what the con game was and stopped it.

There are countless other con games of which older adults should be wary. Here are several of the most common:



Insurance Sales. A

person may appear at the door posing as an insurance salesperson, insisting that the first payment on an insurance policy must be made right then. A quick inquiry of the insurance company will probably find that the company has never heard of the salesperson and it is not demanding that you make an immediate payment.

Vision and Hearing Sales. An unlicensed

(Continued on page 4)

**TAKE A MOMENT TO WALK
DOWN MEMORY LANE.
HOW MANY OF THESE DO
YOU REMEMBER?**

1. Blackjack chewing gum
2. Wax Coke-shaped bottles with colored sugar water
3. Candy cigarettes
4. Soda pop machines that dispensed glass bottles
5. Coffee shops with tableside juke boxes
6. Home milk delivery in glass bottles with cardboard stoppers
7. Party lines
8. Newsreels before the movie
9. P.F. Flyers
10. Butch wax
11. Telephone numbers with a word prefix (OLive -6933)
12. Peashooters
13. Howdy Doody
14. 45 RPM records
15. S&H Green Stamps
16. Hi-fi's
17. Metal ice trays with levers
18. Mimeograph paper
19. Blue flashbulbs
20. Beanie and Cecil
21. Roller skate keys
22. Cork popguns
23. Drive-ins
24. Studebakers
25. Washtub wringers

If you remembered 0-5 = You're still young
If you remembered 6-10 = You're getting older
If you remembered 11-15 = Don't tell your age
If you remembered 16-25 = You're older than dirt!
(So the younger folks say!)

If you remembered most of these, chances are you need us! Please call if we can help with your Elder Law issues.

Need a speaker for your group or club?

Our staff has extensive experience in presenting timely and informative programs to churches, clubs and professional organizations. If you have a need or are interested, please contact our Marketing Coordinator, JoAnne Vernon at vernonjl@earthlink.net.

**Caring for Your Loved Ones
From Far Away**

Today's highly mobile society often means that children no longer live in the same town, state or perhaps even country as their parents. That distance might create a logistical challenge to have many "in person" visits with your parents, but it doesn't mean that you can't be proactive and involved in caring for your parents from far away.

The most important step in addressing concerns you may have for your parents is communication. Communicate, communicate, communicate!! Talk to your parents or loved one about what is important to them, what they may be worried about, and how they can continue to maintain their independence. Planning ahead when you have the luxury of time gives your parents far more options than just ignoring the issues until a crisis situation occurs.

"The Talk" might be difficult, but it needs to happen. Communicating openly and honestly is mandatory. Coordination of your loved one's personal, financial, legal and medical service providers will allow you to feel confident that you are doing all possible to assist them in maintaining their independence and quality of life.

Consulting with an attorney who understands the countless issues you may face in caring for an aging parent gives you an effective resource that can make efficient and effective use of your time and your loved one's resources. Elder law attorneys focus on the specific needs of seniors and their families, and assist them in dealing with life and estate planning to focus on those needs. Elder law attorneys are familiar with the resources that you will need to access to best serve your loved one both now and as they age. No matter where you are, an elder law attorney can help you quarterback the team that will go the distance for your parents.

A geriatric care manager can make discussing difficult medical issues less challenging. Geriatric care managers assist older adults in assessing current medical, cognitive, and home situations to assure that their current setting best serves their needs. These professionals have a minimum of a bachelor's degree or substantial equivalent training in gerontology, social work, nursing, counseling, psychology or a related field.

Once you know what you're dealing with, then you can access appropriate resources to serve your loved one's needs. Putting together a team to help your parent age in place creates a support system to address all areas of the elder's life. Friends and other relatives that are near by can keep in closer contact with your loved one and let you know of any changes or challenges the elder might be facing. There are many community services that help with care giving, such as home care aides to perform household chores, meal services, companion and telephone reassur-

(Continued on Page 3)

(Continued from page 2)

ance services, and home observation programs. Many communities have senior centers, transportation services, and adult day cares. The U.S. Administration on Aging can help you find such local services.

Your elder law attorney can help you coordinate these types of resources along with your loved one's financial advisors to assure that their finances are properly managed. An appropriate estate plan will accomplish your parent's wishes about what happens to their assets after their death. An appropriate asset preservation plan can allow your family to retain assets to continue to support and provide the quality of life your parents deserve. All it takes is planning – and communication.

Frank Johns Testifies Again Before US Senate Special Committee

On Thursday, July 22nd, Frank Johns testified, for the third time, before the U.S. Senate Special Committee on Aging as an expert witness in a forum discussing issues associated with guardianship. In addition to his elder law practice at Booth Harrington and Johns, Frank is also a past president of the National Academy of Elder Law Attorneys and a recognized expert in guardianship law. His participation in this forum represents the second time he has been asked to testify before the Senate Special Committee on Aging. He previously offered expert testimony regarding issues of guardianship in February of 2003.

The Senate Special Committee on Aging presented this forum to cover three important topics: (1) an examination of state laws that provide for oversight of guardianships; (2) breakdowns in collaboration between state and federal oversight programs that serve incapacitated seniors; and (3) examples of courts that are commendable for their training and monitoring of guardianship programs. Frank was asked to present recommendations on what should be done to monitor accountability and enhance state guardianship systems.

Guardianship is a legal mechanism that grants an adult power to make decisions for another person; courts typically use guardianship to manage the affairs of incapacitated seniors, frequently allowing children of the elderly the right of control over decisions concerning finances, health care, and the ability to enter into contracts. With a rise in the number of senior citizens afflicted with Alzheimer's and dementia, guardianship can be a life-saving and asset preserving safeguard. However, since guardianship represents a significant infringement on the individual's autonomy in

most areas of decision making, closer monitoring & administrative oversight of guardianships is essential in preventing abuse of older Americans.

Frank is one of only six Board Certified Elder Law Attorneys in the state of North Carolina. He was a charter Board member of the National Guardianship Association, serving from 1988-1993 and is currently a Registered Guardian. He serves on the Boards of the Western Carolina Chapter of the Alzheimer's Association, the Charlotte Mecklenburg Seniors Centers and the Corporation of Guardianship, Inc., among others.

If you have any interest in the mission of the Senate Special Committee on Aging, or would like further information on upcoming testimony, please call (202) 224-1467.

We are out and about!

Date/ Speaker	Topic/Time	Location/ Audience
Tuesday, Sept. 21 Frank Johns	Western Chapter Alzheimer's Association Family Support Meeting 6 PM—8 PM	Guilford College Methodist Church Greensboro
Saturday, October 9	Memory Walk in support of the Alzheimer's Association. 9 AM— Noon	Marshall Park Charlotte
Sat—Wed October 16 –20	NC Conference On Aging Training & Exhibition	Sheraton Imperial Hotel Durham For info call: 336-761-2111
Wednesday, October 20 Jack Harrington	65th Annual Symposium, NC Assoc. of CPAs Eldercare Law Update 10:30 to 11:45 AM	M.C. Benton Convention Center Winston-Salem THIS PROGRAM IS FOR CPAs
Tuesday, December 7 Beth Caviness	CLE Session: Estate Planning - Mastering the Basics 8:30—4:30 Registr. Info 715-855-0495	Charlotte Convention Center 501 College Street Charlotte

(Continued from page 1)

salesperson may appear at the door posing as a vision or hearing specialist, insisting that the glasses or hearing aids being offered are only available for one more day at bargain rates. The simple rule is to ask the salesperson to call your doctor before to confirm that you should buy the vision or hearing product.

Products Advertised as Miracle Cures. This is known as quackery. Every year people spend millions of dollars on products advertised as cures for arthritis, cancer, baldness and insomnia. If medical science has not found a cure for an ailment, then do not buy a product advertised to cure it.

Contributions to Charity. Make sure the money goes to a legitimate charity. If you have doubts whether a charity is legitimate, call your local Better Business Bureau.

Investment Opportunities. Investment opportunities that are “too good to be true.” Before you spend any money, talk your plans over with someone you trust.

Home Repair Frauds. Do not agree to let someone who is “just driving by” work on your home. Shop around before you spend money on home improvements, and ask for references from satisfied customers.

Door to Door Sales. Door-to-door salespersons who pressure you to buy. If you have any doubt about whether you want something after you have bought it at your home, remember that North Carolina law gives you three days after signing a sales agreement to tell the seller you have changed your mind. Make sure you get a phone number, or have some way to contact the salesperson. This law applies to credit sales made at your home. It does not include clothes, cars, farm equipment, or goods to be used within ten days in connection with a funeral.

Pigeon Drops. There are many variations of this scheme. Typically, you are approached by one member of a con team. Once the con artist has become friendly with you, the partner approaches the two of you with a story about having found a large sum of money. You are invited to share in the good fortune but are asked for “good faith” money while details about how to divide the “found money” are worked out. Once you turn over your good faith money, you never see the con artist team again.

Con artists are slick and persistent. Older Americans must keep their guard up, approaching each direct cold call with skepticism.

It is best to “just say no” to strangers using the phrases like: “minor contract,” “contract a mere formality,” “something for nothing,” “miracle cure,” “last chance land deal” (or “last chance” on any product), “get rich quick,” “a deal too good to be true,” “earn big money at home,” “special once in a lifetime offer.” Remember to listen to what salespeople are saying, particularly if they are at your home uninvited. Do not be rushed into any purchase. If a transaction seems hurried, requiring an immediate decision or action, a swindle is probably in the making. Many con artists try to take advantage of loneliness, promoting the belief that more money may be left for children if there is cooperation. Err on the side of protection by reporting suspicious people to the police or sheriff’s department. If you don’t, then someone else may be cheated or swindled.

Questions about rights and protections may be directed to consumer protection agencies such as the U.S. Office of Consumer Affairs Help Line 1-800-664-4435 and the North Carolina Attorney General’s Consumer Protection Division 1-877-566-7226.

Enter Our Contest!

We want to make our newsletter better for our readers. To this end, we are inviting you to submit story ideas and questions that we might use in an upcoming issue of
THE ELDER LAW VOICE.

Here’s how the contest works:

- Go to our website www.nc-law.com and click on the “contact us” section. Send us an email with your topic or questions for our Elder Law attorneys.
- Out of all of the topics and questions collected, if your submission is selected, we will announce you the winner of our contest!

Winners of the contest will be awarded **one half hour of free consultation with one of our Elder Law Attorneys** at either our Greensboro or our Charlotte office locations.