

## **It's All Relative: Financial Exploitation in Family Systems**

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### **I What is Financial Exploitation?**

A. Financial exploitation occurs when a person misuses or takes the assets of a vulnerable adult for his/her own personal benefit. This frequently occurs without the explicit knowledge or consent of a senior or disabled adult, depriving him/her of vital financial resources for his/her personal needs.

B. The manners in which assets are commonly taken, and financial exploitation occurs, include of undue influence, deception, false pretenses, coercion, harassment, duress and threats.

C. The studies on financial exploitation, particularly when done by a family member or close friend, are of very limited use since all of the authorities on this topic agree that exploitation is greatly underreported, resulting in some very sketchy figures on the extent of the problem.

### **II Common Ways Family Members and Trusted Others Exploit Vulnerable Adults**

A. Using a Power of Attorney, given by the victim to allow another person to handle his/her finances, as a license to steal the victim's monies for the perpetrator's own use

B. Taking advantage of joint bank accounts in the same way

C. Using ATM cards and stealing checks to withdraw monies from the victim's accounts

D. Threatening to abandon, hit or otherwise harm the victim unless he or she gives the perpetrator what he/she wants

E. Refusing to obtain needed care and medical services for the victim in order to keep the person's assets available for the abuser

F. In-home care providers charging for services; keeping change from errands, paying bills which don't belong to the vulnerable adult, asking the vulnerable adult to sign falsified time sheets, spending their work time on the phone and not doing what they are paid to do

### **III Effects of Financial Exploitation on Vulnerable Adults**

Elderly victims of financial exploitation may also experience feelings of guilt or shame, particularly if the offender was a family member or someone else whom they trusted. As a result of these feelings, they may lose confidence in their own judgment and become severely depressed, even to the point of suicidal ideation. Michael J. Tueth, M.D., Exposing Financial Exploitation of Impaired Elderly Persons, American Journal of Geriatric Psychiatry, 8:104-111, May 2000. Other symptoms or consequences of financial exploitation of the elderly may result in the victim's

- Loss of trust in others
- Loss of emotional and financial security
- Feelings of fear, shame, guilt, anger, self-doubt, remorse, worthlessness
- Inability to replace lost assets through employment
- Inability to hire attorney to pursue legal protections and remedies
- Becoming reliant on government 'safety net' programs
- Inability to provide for their own long term care needs
- Loss of primary residence

### **V Profile of the Victim**

A. Researchers have found that the elderly adults who are most likely to be financially exploited by care-givers or family members through undue influence share one or more of the following characteristics:

1. Being physically disabled or weakened, and thus dependent on the assistance of others in performing the activities of daily life, such as bill-

paying, reviewing and responding to emails, transportation, house-cleaning, meal preparation, and shopping.

2. Living alone, and being isolated from community activities and health care services.

3. Having few family or friends who are able and willing to visit and engage in social interaction.

4. Experiencing grief over the loss of a loved one (a spouse or sibling, etc.) whom they lived with or to whom they were emotionally close.

5. Suffering from depression caused at least in part by their isolation or loss.

6. Being naturally naive, overly trusting, and open with people.

7. Lacking knowledge about their own finances and/or the confidence in their ability to handle them, e.g., their recently deceased spouse always took care of the bills and finances, so that the older person does not trust himself or herself to handle such responsibilities, or the recently remarried elder reposes trust in his new spouse to manage his affairs.

B. Research has also found that even when an elderly victim is aware that the perpetrator is misappropriating their funds, they still will not report the theft to the authorities or others. This silence can be based on fear of abandonment, being overwhelmed at the prospect of involving law enforcement and the court system in their personal affairs, and/or a fear of having to age alone or being forced to go into a nursing home if they would report the abuse.

## **VI Profile of the Perpetrator: Opportunists and Predators**

Individuals who financially exploit a vulnerable elderly adult through undue influence can range from the victim's spouse, child, or other close relative, to more remote family members, neighbors, attendants in a nursing facility, or simple acquaintances. Perpetrators tend to fall into one of two groups: opportunists and predators.

## **A. Opportunists**

1. Opportunists begin their relationship with the victim in a close and trusting manner. Over time, however, whether due to resentment, repressed anger, or some other rationalization, opportunists come to believe they are entitled to take the victim's assets.

2. Opportunists most often are family members. In many cases they have been entrusted with the victim's assets as an agent under a durable power of attorney, as trustee of a lifetime trust, or as a joint owner of bank accounts, and end up using that access to transfer the assets to themselves.

[Note: Unrelated opportunists can include housekeepers, neighbors, a care-giver at an assisted living facility or nursing home, fellow members of a church or synagogue, clergy, attorneys, accountants, bankers, and investment advisers.]

## **B. Predators**

1. Predators are those who intentionally seek out older persons of apparent means to victimize. Predators tend to find their victims by frequenting places that are known to cater to older people, such as senior centers, nursing homes, and even support groups for the bereaved. Predators often develop close and trusting relationships with a victim by purposely obtain jobs in private homes, hospitals, or pharmacies.

2. Predators also seek to be socially or romantically "set up" through family members or friends with potential victims. Despite initial resistance or unwillingness, some victims ultimately succumb to thinly-veiled pressure, manipulation and threats, and end up marrying their perpetrators.

3. Predators often exploit these contrived relationships and a victim's vulnerabilities to create dependence and isolation.

4. Even when confronted with overwhelming evidence of their abuse and undue influence, they do not apologize for their actions. Their responses more often are aggression and anger toward the accuser.

## VII Evolution of a Financially Exploitative Relationship

A. There are five common elements in all of the financial exploitation cases I have dealt with – **vulnerability, secrecy, isolation, dependence** by the victim on the perpetrator, and **domination** by the perpetrator over the victim

B. The perpetrator first recognizes that the elderly person is vulnerable. This observation may be based on the older person's physical, social, emotional, and/or cognitive deficiencies (including but not limited to issues with vision, memory, speech, hearing, mobility, and/or low social/emotional functioning)

C. The perpetrator next secures the victim's trust and confidence by being friendly, considerate, helpful, accommodating, flattering, acquiescent, or deferential. If there has been a long-standing relationship between the parties, this trust may already be present.

D. After the establishment of trust and confidence, the perpetrator begins to isolate the victim from contact with other people (friends, relatives, colleagues, attorney, clergy, etc.) who may have been helpers in the past, or whose influence might interfere with that of the perpetrator.

1. In the more obvious cases, phone calls are screened, U.S. mail (and email) is checked, and attempts by others to visit the victim are discouraged or conducted only in the presence of the perpetrator.

2. Purposeful isolation of the victim is frequently the best indicator of undue influence. Oftentimes the victim is already living alone and generally removed from contact with outsiders, due either to physical limitations or a psychological fear of leaving the confines of home, and the perpetrator further reinforces their isolation.

E. The perpetrator can create a warped sense of reality in which the victim learns to regard all others – including his own family and formerly-trusted colleagues and advisors -- with fear and mistrust. For example, the perpetrator will convince the victim that everyone else is interested only in selling their home, taking their money, and the only people who can be trusted are the perpetrator and his/her family and colleagues.

F. Gradually the victim transfers all of their affection to the perpetrator. The victim will even lie about their condition to keep away family, friends, Adult Protective Services, or the police.

G. At this stage perpetrators will begin to manipulate the victim through acts of intimidation and threats, e.g., withholding food or medicine, or threatening to leave them to fend for themselves or grow old alone, unless the victim agrees to deed over their home or execute a new will that benefits the perpetrator.

H. The victim's long-time attorney and other advisors may be replaced at this point by unscrupulous or naive professionals who are chosen by the perpetrator to change the victim's estate plan to benefit the perpetrator. Out of undisclosed fear, the victim may instruct the new attorney to draft the new estate planning documents as the perpetrator desires, asserting that the instructions reflect the victim's testamentary intent (though, in fact, it does not). Similarly, the victim may prepare and execute a holographic instrument at the insistence of the perpetrator. The victim may also instruct his or her investment advisor to change death beneficiary designation on investment accounts to the perpetrator and/or the perpetrator's family members, or to add such people as joint owners.

I. The culmination of these steps is that the victim winds up giving the perpetrator access to or control over their bank accounts, investments, and other assets, and making substantial "gifts" to the perpetrator and/or members of the perpetrator's family.

## **VIII Explaining the Victim's Behavior**

A. Stockholm Syndrome is based on a 1973 incident in Sweden involving hostages taken in a bank robbery who fought off police efforts to rescue them after six days in captivity. From that incident, the theory has been posited that in relationships where a dominant person has succeeded in isolating and controlling a weaker person's environment, the weaker person will tend to form a strong bond with the dominant party, even to the point of defending that party if his or her control is challenged by an outsider who is attempting to rescue the weaker person.

B. While it does shed some light on the victim's actions, Stockholm Syndrome has not been recognized as a mental disorder in the DSM. As applied to an elder abuse situation, there may be no clear correlation between how hostages act in a life-and-death crisis situation like an armed bank robbery and how an elderly person might respond when caught in an abusive relationship with someone who may be a long-time friend or family member.

C. Victims of abuse object to such a label being put on their actions, since in effect it turns them into victims a second time by suggesting that they are suffering from a type of mental disorder. The basic human elements of intimidation and fear are sufficient by themselves, they say, to explain their actions.

D. Regardless of the underlying causes, the practical effect of the victim's behavior in an undue influence case will often be that they will side with the perpetrator if confronted with evidence of financial exploitation, and refuse to take legal action against them.

## **IX Red Flags that Financial Abuse may be Occurring**

- Termination of vital utilities such as telephone, water, electricity / gas, or garbage
- Unpaid bills and liabilities despite adequate income
- Oversight of finances surrendered to others without rational basis or consent
- Checks written to "Cash"
- Does not understand his/her current finances, offers improbable explanations
- Unexplained disappearance of cash, valuable objects, financial statements
- Unexplained or unauthorized changes to wills or other estate documents
- Uncharacteristically giving-away money or spending promiscuously
- Appearance of property liens or foreclosure notices
- Taking out loans to pay other people's debts
- Unusual activity in the victim's bank accounts is usually the best evidence that financial exploitation is occurring. Such activity can include:
  - Placing the perpetrator's name on bank accounts as co-owner with right of survivorship, agent, POD, or trustee.
  - Transfer of funds to new accounts at banks with which the victim has had no prior connection, and frequent transfers of funds among several accounts.
  - Checks in large amounts or on frequent occasions being paid to persons who have had no prior financial connection to the victim, especially if they are related to or associated with the perpetrator.
  - Frequent withdrawals being made through ATMs, especially if victim is physically frail and has not previously used an ATM.
  - Suspicious signatures appearing on checks or credit card applications.
  - Bank statements and canceled checks no longer being sent to the victim's home address or no longer being provided to the victim to review.

References:

Michael J. Tueth, "Exposing Financial Exploitation of Impaired Elderly Persons", American Journal of Geriatric Psychiatry, May 2000; Hall, Hall & Chapman, "Exploitation of the Elderly: Undue Influence As A Form of Elder Abuse", Clinical Geriatrics, February 2005.

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