

Executive Session - Sub. on Aging Hearing on Financial Abuse and Exploitation

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Witness:

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Board Member

AARP

Salisbury, MD

Testimony:

Financial exploitation has many disguises, causes, and forms of expression. But the common thread of its many modalities is an effort by unscrupulous persons to extract money and resources through a variety of devious means from unsuspecting and often vulnerable individuals. How best to determine the frequency of exploitation and its many effects on older citizens continues to be the subject of much debate. The incidence and impact of exploitation are difficult to estimate because:

there is no national reporting mechanism,

cases are often not reported,

definitions vary, and

the crimes difficult to detect.

According to the 1998 National Elder Abuse Incidence Study, financial abuse accounted for about 12 % of all elder abuse reported nationally in 1993 and 1994, and 30.2% of substantiated elder abuse reports submitted to Adult Protective Services (APS) in 1996 after excluding reports of self neglect. Further, the National Research Council's review of state figures indicates that financial exploitation is the most frequent form of reported elder abuse in Illinois and Oregon, while constituting half of all New York state reports, and 63% of reported cases in New York City.

In the 2000 survey of the National Association of Adult Protective Services

Administrators for the National Center on Elder Abuse, financial abuse/exploitation

comprised 13% of the allegations of mistreatment investigated. However much exploitation is detected, reported, investigated, substantiated, or prosecuted, everyone agrees that more happens than is brought to light and that any exploitation is too much.

While numerous types of activities constitute elder financial abuse, all have the same characteristic of the improper use of an older person's assets. But these activities go far beyond what most of us would consider merely "improper." The forms of exploitation challenge our imagination, but not those of the perpetrators who employ, deceit, lies, forgery, false pretenses, coercion, or undue influence for personal gain.

The other common characteristic of financial exploitation is abuse of trust. The perpetrators are not strangers snatching a purse, or robbers wielding a gun. They are sons, granddaughters, caregivers, neighbors, new-found friends, confidants, financial and spiritual advisors, and professionals who have -- or develop -- an aura of trustworthiness.

To accomplish their deception they build on an appearance of reliability or professed expertise. They want the victim to see them as the savior, the hero, a true friend, or a concerned family member. Instead of a gun, their weapon of choice may be a purloined check, a power of attorney, a promise of financial security, or a smile and a bouquet of flowers.

Recognizing that financial exploitation is a pervasive and increasing problem that specifically threatens our members' financial security, AARP is addressing this problem through programs that educate members, families, professionals and potential victims.

Daily Money Management:

Older persons who are losing their ability to handle their financial affairs due to physical or cognitive impairments are vulnerable targets for financial exploitation. For more than twenty-two years, the AARP Foundation's Money Management Program has been successful in using volunteers to assist vulnerable low income older people with their daily money management needs.

The program either provides a bill payer for those individuals who can still sign checks or a representative payee for those people who receive federal government income, such as Social Security, but need someone to help them manage their money.

Presently, the Foundation's Money Management Program is in 20 states and the District of Columbia, working with 130 agency programs and growing. The program served 4,845 individuals last year with about 3200 volunteers who donated at least 4 hours each month to helping these vulnerable older people.

Financial Education:

AARP has conducted extensive educational projects to meet the needs of surviving spouses who may suddenly find themselves responsible for taking over the management of complex financial affairs when their spouse dies. Because these surviving spouses may not have had experience in managing money, they are vulnerable to the conniving "hero" who offers to help out. In reality, such con artists only intend to help fill their own pockets. AARP's financial literacy programs are designed to expand financial awareness and enable participants to evaluate the trustworthiness of supposed advisors and experts.

Colorado Elder Watch:

The Attorney General of Colorado dedicated approximately \$1.5 million over a 3-year period to protect older adults from financial exploitation after learning about the many telemarketing and other identity theft scams taking place in that state. AARP Colorado is a lead partner in this project, currently in its third year.

The three purposes of AARP ElderWatch are: (1) INFORMATION IN: to provide a hotline for older persons in order to refer them to appropriate services, as well as to document the types of crime committed against older individuals in the state of Colorado and to track down and bring criminals more quickly to justice; (2) INFORMATION OUT: to provide educational information to the senior, legal, law enforcement and larger community to detect and prevent crime before it occurs; and (3) CLEARINGHOUSE: to serve as a clearinghouse by providing information on financial exploitation and consumer fraud to older Coloradans. Approximately 5,500 calls have been received and recorded to date and more than 270 presentations have been made across the state.

Campaign Against Predatory Lending:

AARP recognizes that for the vast majority of older persons, their home is their most valuable asset. In many instances, it is their only asset. To empower older homeowners to maintain their financial security and preserve the equity in their homes, AARP has launched an integrated campaign against predatory home lending practices. Predatory lenders extend high repayment loans that strip the home equity -- leading to a growing

number of foreclosures. In addition to legislative reform and precedent-setting litigation, AARP reaches out to older homeowners to educate them regarding what to watch for in borrowing against the equity in their homes. Trained AARP volunteers in two dozen states repeatedly go out into their communities and churches with talks, videos, warning signs and checklists – in both Spanish and English – to spread the word.

This fall, AARP volunteers in four states – including Maryland -- will be calling homeowners in neighborhoods known to be targeted by predatory lenders to alert them to the signs of predatory practices and encouraging them to get copies of their credit reports and scores before taking out any kind of loan.

Consumer Universities:

Another popular and very successful tool that AARP uses to alert older consumers to financial exploitation schemes is what we call “Consumer Universities.” We are holding one such university at the Wicomico Youth and Civic Center in Salisbury, Maryland, on October 4th. At this university we will offer presentations by leading local experts on how to avoid being exploited in the financial marketplace, in one’s home, or by false advisors.

Legal Clinics and Attorney Training:

In a number of states -- including Maryland and the District of Columbia -- we have held legal clinics for homeowners who are about to take out loans. At these clinics, expert lawyers or housing counselors examine loan applications to see if owners are about to be exploited by the loan terms.

We have also trained over 200 lawyers in seven states on the legal remedies available to help victims of predatory lending, financial exploitation and elder abuse.

Use of the AARP Media:

AARP recognizes that we can educate many persons about financial exploitation through our array of publications. Each issue of our monthly newspaper, “The Bulletin,” has a “Consumer Alert” column. A recent video news release we disseminated tackled the problem of unscrupulous moving companies that hold customers’ goods hostage, demanding payment far in excess of the estimate. Other Bulletin articles inform our readers of other potential ways in which they might be exploited. For example, the next issue will alert seniors to protect themselves from being targets of complex investment scams that promise huge returns.

An upcoming article in “AARP -- The Magazine,” with a readership of 35 million, will focus on guardianship, with an example of how guardianship was used to remedy devastating financial exploitation. AARP’s website has many articles aimed at helping consumers improve financial literacy and protect themselves against exploitation. For example, because powers of attorney can potentially cause financial devastation when in the hands of the wrong agent, we have articles both for the consumer on how to select an agent, and for the agent on how to properly exercise their authority.

Research

The AARP Public Policy Institute (PPI) undertakes research on consumer financial and fraud issues to better understand their causes, and to promote the development of preventions and protections against possible financial exploitation. Such issues include preneed funeral and burial agreements, identity theft, and the regulation of home improvement contractors and subprime mortgage lending.

Funeral and burial purchases are often made when buyers are emotionally vulnerable and lack the time and information to negotiate prices effectively. As more people pay for their funeral and burial in advance, it is increasingly important that laws and regulations be in place to effectively regulate this unique consumer purchase. PPI recently researched changes in industry practices and analyzed state laws governing preneed agreements. The objective was to determine the extent to which state laws incorporated significant consumer protections. Information gathered has been shared with state officials and the Federal Trade Commission as that agency reviewed its rules requiring disclosure of price information in the sale of funeral products and services.

Identity theft, another form of financial abuse, is considered one of the nation's fastest growing crimes and creates tremendous problems for consumers in obtaining credit and clearing credit records of fraudulent account activity and incorrect information. PPI recently analyzed the Federal Trade Commission's 2001 complaint data from its Identity Theft Data Clearinghouse to identify the types of identity theft problems experienced by consumers age 50 and older. The analysis found that older complainants were more likely to report a greater variety of identity theft crimes, including "attempted" identity theft, than other complainants. AARP included this information in recent testimony before the Senate Banking Committee in support of improvements in the Fair Credit Reporting Act. Abusive home loans and home repair practices are a final major area of research that we will mention. As noted earlier, a home is usually the largest financial asset held by older households. Home improvement is essential for preserving both the safety and value of the homeowner's property. According to the Bureau of Labor Statistics' 2002 Consumer Expenditure Survey, Americans spent more than \$173 billion on contracted home improvement projects and do-it-yourself home repairs.

Older homeowners have a greater need for hiring home improvement contractors than younger homeowners because they have higher rates of homeownership and tend to own older homes that are more likely to need repair. Further, as homeowners age they are less likely to undertake home repairs on their own.

Research indicates that older homeowners are often more vulnerable than younger homeowners to fraudulent home improvement practices because they:

are more likely to be home during the day when fraud perpetrators operate, have relatively large amounts of readily accessible cash (on hand or in a checking account), and

are less likely to take action against fraudulent contractors.

To improve enforcement against fraudulent contractors, AARP, in cooperation with the National Consumer Law Center, developed a model state law to (1) improve the licensing, bonding, and insurance coverage of contractors, and (2) prohibit misrepresentations and deceptive acts. PPI has also initiated a significant research project regarding lending practices in the subprime mortgage market where predatory lending practices disproportionately occur.

Recently, PPI undertook an analysis of a national survey of mortgage borrowers age 65 and older who acquired prime or subprime refinance loans to determine if there were any differences between loans originated by "lenders" as compared to "brokers." Because home equity is a key component of wealth in older households, it is critical to assure that older mortgage refinance borrowers can obtain fairly priced loans that protect their

current and future financial security, regardless of who originates the loan. The study found that older refinance borrowers with broker-originated loans were more likely to report having received loans with less favorable terms, such as prepayment penalties, than those with lender-originated refinance loans. Also, broker-originated refinance loans were nearly twice as likely as lender-originated loans to be subprime loans. Finally, older refinance loan borrowers with broker-originated loans were much more likely to report that they did not initiate contact regarding a loan; they also relied more on the broker in making important mortgage-related decisions than older borrowers with lender-originated loans. PPI is currently undertaking an analysis of state laws regulating mortgage brokers to determine if changes are needed to protect older consumers against unfair and deceptive practices.

AARP regards its multifaceted effort against the financial exploitation of older persons as a valuable way to equip consumers, families, professionals and vulnerable elders to detect, prevent, or intervene before financial crises arise. We make information about all of our programs, services and research available online, in print media or both. AARP appreciates this opportunity to share our financial abuse education and prevention activities with the Committee and looks forward to working with you to pass legislation, like the Elder Justice Act (S. 333), to provide a comprehensive national approach to elder abuse prevention. Thank you.