

# BUILDING AWARENESS TO PROTECT OLDER ADULTS

The United Nations General Assembly designated June 15 as World Elder Abuse Awareness Day. Secretary General Ban Ki-moon observed that elder abuse affects millions of older adults around the world, and is an issue that deserves the attention of the international community.

What is the issue that has captured the international imagination, and how can you protect yourself and your family?

## PROFILES IN ELDER FINANCIAL FRAUD

Sadly, elder abuse can take many forms, including physical, emotional, psychological and financial abuse. This article focuses on financial abuse, but the tragic reality is that mistreatment does not happen in silos.

Financial abuse has an emotional and psychological component.

Financial abuse cases also do not fit one profile. Older adult victims may reside in assisted living facilities, may be hospitalized, or may be suffering from Alzheimer's or dementia. They may be under the care of a relative or a professional caretaker, or they may be living independently. Victims may have large accounts and private jets, or they may be reliant on social security. Sophistication seems to offer little protection because abusers appear in unlikely places. Abusers include not only complete strangers conducting telephone or email-based scams, but also close family members and other caregivers.

Take the case of Mickey Rooney, a Broadway star and Hollywood legend. In 2011, an elder abuse lawsuit was filed on behalf of Rooney against his stepson, Christopher Aber, and his wife, Christina, alleging verbal and financial abuse spanning a 10-year period. The complaint documented that Aber betrayed Rooney's trust and was thereby able to gain access to Rooney's income and finances which Aber used for his and his wife's personal gain. The petition stated, among other things, that

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Aber had named himself an account owner as well as a signatory on Rooney's personal and business accounts, which included Densmore Productions, Inc., Rooney's professional management company. Rooney, who was 90 years old at the time the lawsuit was filed, described feeling "trapped, scared, used, and frustrated," and alleged that Aber regularly withheld food and medication from him which led to bouts of depression.<sup>1</sup> Rooney passed away in 2014, but left the world with a message about his experience. Testifying before the Senate Special Committee on Aging, Rooney said:

The strength you need to fight [elder abuse] is complicated. [...]Because you love your family, and for other reasons, you might feel hesitant to come forward. You might not be able to make rational decisions. [...]For years I suffered silently. I couldn't muster the courage to seek the help I knew I needed. Even when I tried to speak up, I was told to be quiet. It seemed like no one believed me. But I never gave up. [...]I am so thankful to my family, friends, and many fans all over the world who have expressed their love and support for me.<sup>2</sup>

## **CHARITABLE SOLICITATIONS**

Charitable solicitation is a realm ripe for elder financial fraud. Many elderly people—especially those with a history of giving—are targeted by aggressive solicitors and fraudulent charities. Aggressive solicitation by charities typically centers on excessive phone calls and mailings, as well as numerous in-person requests for money. During these charitable "asks," the solicitor will often use fear and guilt to pressure the elderly target to give a donation. Another technique of unscrupulous solicitors is to follow-up with an elderly person—who has already made a donation to that solicitor—to procure another donation. Here, the solicitor will attempt to confuse the elderly target by saying that the previous donation was actually for another organization, or that the elderly person told the solicitor to come back to receive another donation.

While some of these solicitations may come from organizations the elderly person has supported in the past, most are sham charities created to prey on the elderly and take advantage of their goodwill. One sign of a charity scam is when a charity refuses to provide detailed information about its identity, mission, or proof of tax deductibility. Another common scheme is for a sham charity to use the name of one or two locally recognized charities or religious institutions to tie or anchor the sham charity to a legitimate one. For example, a sham charity may call itself the

“Hoopler Youth Sports Club” because Hoopler is the name of a local church recognizable to many elderly persons in the area. Then a solicitor will target elderly people for donations to support the youth sports club’s “work with kids in the community” and play up an affiliation with Hoopler church. In reality, however, the organization probably only exists on paper, if that.

In short, older adults, regardless of health or financial status, may be targets of unscrupulous relatives, friends, caretakers, or charities. In all cases, the financial and emotional toll is real.

## **WHAT TO DO?**

Here are five things you can do to protect yourself and your loved ones against elder financial fraud.

- *Hire wisely.* We hire a myriad of professionals to support us and our family members, ranging from in-home healthcare aids, cleaning crews, and contractors to financial advisors like wealth planners, accountants, attorneys, and insurance brokers. These people enrich our lives but also have access to our personal financial information. Additionally, contracting with a large and reputable organization can add a layer of fraud protection in so far as employees are vetted, screened, trained, and supervised.
- *Give prudently.* With respect to charitable giving, be informed and exercise care. Research charities or have a family member or your financial advisor do the research for you. If you have questions about a charitable request, you can always contact the charity directly to ask if they are aware of the solicitation. If you are unsure about a charity, the Better Business Bureau, Wise Giving Alliance, and GuideStar are good resources to research charities. Never give a credit card or bank account number until you have thoroughly researched a new or prospective charity.
- *Work across generations.* Members of older and younger generations can work together to prevent fraud. For example, a niece might talk with her great aunt about the aunt’s charitable goals. Together, they might identify the three or four charities the aunt wants to support and then plan to give donations to those charities at the same time. By working together on a short and long-term charitable giving plan, the aunt will be less susceptible to solicitors from sham charities. Also, if you believe an elderly

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Five ways you can protect yourself and your loved ones against elder financial fraud.

loved one has been a victim of a charity scam or if a solicitor has violated “Do Not Call Rules,” you can file a complaint with the Federal Trade Commission or your state’s Attorney General’s Office.

- *Have backup.* What happens when an otherwise independent adult starts to slip? He routinely pays bills twice, bounces checks, or forgets to pay bills that are due. Perhaps he is hospitalized or in a rehabilitation facility for several months without access to his checking account. Who can step in to help? First, a reliable bill-pay service could make sense (and can be a nice convenience in any event). Second, a power of attorney, co-trustee, or trust protector can act on behalf of the person facing difficulty. Unfortunately, many legal documents say that a power of attorney or co-trustee cannot step in until a physician declares the person “incapacitated” (a high bar). Talk with your estate planning attorney about whether your trust agreements and power of attorney documents should have a different bar. In all cases, use great care in selecting agents and fiduciaries.
- *Bring in the courts.* If an adult lacks capacity under state law or if financial fraud has already taken place, a person related to the adult generally can ask the state court to appoint a legal guardian. The legal guardian can be a family member, friend, professional guardian, or state-appointed public guardian. The guardian may only be responsible for the person’s financial affairs, or may have broad authority to handle financial, legal, and healthcare decisions. Guardianship is particularly helpful when financial fraud has already taken place.

## **CONCLUSION**

Mickey Rooney was right. Older adult victims often suffer silently for fear of “rocking the boat.” A strong network of close family, friends, and professional advisors can help monitor fraud from different angles and can intervene even when the victim is unable to protect himself.

Reputable organizations have systems to monitor for bad actors. And, trusted agents, including bill pay services, attorneys in fact, trustees, co-trustees, and guardians, can act for an adult when he can no longer act for himself. Protecting loved ones takes a village, but is well worth the effort.

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If you would like to learn more about these and other services offered by Northern Trust, contact a Northern Trust professional at a location near you or visit us at [northerntrust.com](http://northerntrust.com).

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<sup>1</sup> Holland & Knight Press Release (2011, September 15). Retrieved from <https://www.hklaw.com/news/Holland-Knight-Files-Elder-Abuse-Lawsuit-on-behalf-of-Hollywood-Legend-Mickey-Rooney-Claiming-Financial-and-Verbal-Abuse-by-Rooney-Stepson-Chris-Aber-09-15-2011/>

<sup>2</sup> Senate Special Committee on Aging (2011, March 2). Retrieved from <https://www.aging.senate.gov/imo/media/doc/hr230mr.pdf>

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