

## ON THE FRONT LINES: BATTLING FINANCIAL EXPLOITATION OF THE ELDERLY

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There exists a growing problem of financial abuse and exploitation of the elderly nationwide and in New Hampshire. In the granite state, with the baby boomers representing a huge segment of our population, it is an issue that will not go away any time soon. A recent case illustrates a common problem and shows how professionals with elderly clients can be instrumental in protecting the elderly of our communities.

As reported in the Union Leader (May 13, 2011), a twenty-four year-old man was recently sentenced to a twelve month prison time for his attempts to cheat a seventy-two year-old widow out of thousands of dollars. The perpetrator, a local Portsmouth waiter and college student, befriended the victim - - a recent widow who may have been lonely and looking for companionship. After building rapport with the woman, the perpetrator initiated his scheme by first asking for small amounts of money, which the victim was happy to provide. Ultimately, the perpetrator asked the victim to see a financial planner with him so that he could "borrow" \$35,000 against her home, which he apparently maintained was for a needed kidney transplant and for a faith healer in the Virgin Islands. As outlandish as this request might sound, because of the trust developed between these two individuals, the victim was willing to help her new found friend.

Fortunately for the victim, she and the perpetrator did in fact meet with a financial planner who, because of his suspicions, used his common sense and contacted the authorities to report what appeared to him to be a fraud and a scheme to extract money. Prosecutors moved forward with the case and ultimately the perpetrator pleaded guilty to a felony charge of theft by deception. The perpetrator will now spend the next twelve months in jail. In issuing the sentence, the Court noted: "I think you need to be punished and need to be punished in a way that hurts. You need to understand that's the way society works. You took advantage of her and hurt her very badly. The only reason it's attempted theft is because you didn't succeed; it didn't have anything to do with you."

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Financial planners, accountants, and estate planning attorneys are all on the front lines of this battle and can have a great impact on efforts to protect the elderly from this type of abuse and fraud. Indeed, New Hampshire law (RSA 161-F:46) requires the reporting of known or suspected actions of abuse or neglect (including financial exploitation) of the elderly. Specifically, our law provides: “Any person . . . having reason to believe that any incapacitated adult has been subjected to . . . exploitation . . . shall report or cause to report” the exploitation to the Commissioner of Health & Human Services, police department or sheriff’s office. Fortunately for this woman, the financial planner saw the fraud and appropriately acted to notify the police of this crime in the making. Although there are many ways to remedy a case of financial exploitation through the courts, with a civil action for injunctive relief, damages or other remedies, by far the best attack on the problem of elderly abuse is preventing this type of theft from happening in the first place. The actions of this financial planner provide us with the best example of how financial professionals are able to provide protection to their clients to save them from financially disastrous and fraudulent relationships.

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