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Love and money and fraud

Financial exploitation of the elderly is growing – and family members are often the culprits.

By Marilyn Gardner | Staff writer of The Christian Science Monitor

For decades Brooke Astor appeared regularly in the society pages of New York newspapers, a grand dame noted for her dual roles as a philanthropist and socialite. But last month she suddenly became the subject of front-page headlines. A grandson, Philip Marshall, alleges that his father, Mrs. Astor's only child, has neglected her care and spent some of her money on his own business ventures.

Anthony Marshall has publicly and vigorously denied the charges, insisting that he continues to provide the best possible care for his frail 104-year-old mother. A court hearing scheduled Tuesday seeks to replace Mr. Marshall, her legal guardian, with Annette de la Renta (wife of fashion designer Oscar de la Renta) and the J.P. Morgan Chase Bank.

BROOKE ASTOR: The New York socialite (shown here in 1997) is at the center of a family squabble over her care. The case raises issues of financial mistreatment of the elderly. SERGE J.F. LEVY/AP/FILE

Whatever the outcome of the case, the allegations deal with a subject that remains largely invisible: elder financial abuse and exploitation. No statistics measure the scope of the problem, but professionals who work with older people say that it is on the rise as the ranks of seniors grow. They also emphasize that it happens at all social and economic levels.

"Financial abuse and exploitation are among the fastest growing forms of elder abuse nationally as measured by different studies and reports," says Bob Blancato, national coordinator of the Elder Justice Coalition in Washington, D.C. He expects the problem to intensify, noting that about 70 percent of wealth in this country is controlled by people age 50 and older.

Financial exploitation takes many forms. Those include taking money or property, forging an older person's signature, and getting an older person to sign a deed or will through deception or coercion.

Most cases of financial exploitation involve family members. "Usually it's someone who is dependent on Mom and Dad," says Chris Johnson, an attorney in Pasadena, Calif., who specializes in trusts and wills. "They need that big pot of money. They're unemployable, or didn't try to work, or have substance abuse problems. They end up isolating Mom and Dad. The other kids are not sure what's going on. It's easy to transfer the house to their name or take out mortgages on the house. They might use some of the money for Mom and Dad, but they use some for themselves, too."

He tells of one case where a sibling siphoned money from his parents' bank accounts to play Internet poker. "He was not very good at it and was dropping $3,000 a day," Mr. Johnson says. Ultimately he spent $250,000 on poker. "If other kids live in another state, they're not going to know. They may be suspicious - he doesn't have a job, is driving a new car, saying he can't work because he's devoting all his time to taking care of Mom or Dad."

Increased longevity is contributing to the problem.

"Dramas are playing out in the courts as children imbued with a sense of entitlement grow increasingly impatient while awaiting their inheritance," says Joline Godfrey, president of The Independent Means, a financial education company in Santa Barbara, Calif. "If you are wealthy and tying up your children's or grandchildren's perceived 'good life,' there could be consequences."

Baby boomers eager to gain access to their parents' assets can lead to exploitation, suggests Frank Congemi, a financial

gerontologist in Deerfield Beach, Fla. "Maybe they haven't done a good job of saving like their parents have, and they're coveting their parents' goods," he says. "Or they may not have had what they consider the best childhood, and this is their time to get even."

Trouble often starts when an older person is isolated. "A lot of people live very distant from their parents, and they don't have day-to-day contact," says Pat Drea of Charlotte, N.C., a long-time elder-care specialist. "If somebody [who lives near their parent] is going to be a predator, they may be relatively undetected."

Problems can also develop when a retiree is not familiar with financial matters.

"A lot of seniors don't realize the value of their assets," says Ms. Drea. "They may have lived in the same place for a long time. What was once a $50,000 house may be worth $300,000 or half a million. They're totally unaware of that. It's also quite common that an unemployed child may have unrecorded loans from the parents - $10,000 here, $20,000 there."

Sometimes the predator is an outsider. Bernard Krooks, a lawyer and president of the New York chapter of the National Academy of Elder Law Attorneys, had a case involving a woman who lived in a Brooklyn apartment. Her children lived out of state.

"The next-door neighbor suddenly started taking an interest in her - driving her to the doctor, picking up her medication, and taking her grocery shopping," he says. When the bank noticed a pattern of systematic withdrawal from her account - $400 to $500 a week - it notified the district attorney's office. An investigation revealed that the money was going to the "caregiver." The court appointed a guardian who had authority to seek return of the funds from the neighbor who stole them.

Mr. Krooks calls cases like this the tip of the iceberg. "What's going on is usually not publicized by seniors because they fear retribution," he says.

Beyond drained bank accounts, such financial exploitation takes another heavy toll - in strained family relationships. Unlike the public accusations and denials in the Astor case, most families keep these experiences private, out of embarrassment. But the effects can be long-lasting. "There are a lot of hard feelings among the children," Drea says.

Lawyers and elder specialists see scattered signs of progress. The banking industry is getting more involved, Mr. Blancato says. The Elder Justice Act, now before Congress, promotes greater public awareness of this kind of abuse. It also encourages training for those who have contact with older people, alerting mail carriers, utility workers, and Meals on Wheels volunteers to watch for signs of financial abuse and to seek help.

In California, Johnson says, laws changed in the late 1990s. Specific statutes dealing with financial and physical elder abuse "make it a little easier to go after people, and there are bigger damages."

Every state now also has elder abuse reporting requirements, Drea says. These include phone numbers of local people to call for help. She notes that signs of potential financial exploitation can include unpaid bills, withdrawals from bank accounts, and transfers that the older person cannot explain. Sometimes a predator becomes the new "best friend," getting access to funds and bank accounts.

To guard against such problems, legal and financial advisers suggest taking care of estate planning early. If possible, let other people know about it. If putting adult children in charge of an estate is problematic, consider hiring a third party - an attorney, a CPA - who is not emotionally attached.

"If you feel you're being abused, tell close friends you're concerned and don't be afraid to go to a lawyer," says Les Kotzer, an attorney and author of "The Family Fight - Planning to Avoid It." He cautions against do-it-yourself remedies, such as making wills on the Internet. Emphasizing the need to choose a trustworthy person to have power of attorney, he adds, "Power of attorney may be one of the most important documents you'll ever sign. You're giving that person the ability to sign your name."

Mr. Kotzer also notes that putting property or financial accounts in joint ownership with an adult child can sometimes be risky.

"There can be a lot of financial abuse where you have a caregiving child who is controlling the money," he says. "Before setting up a joint bank account with your [child], ask a lawyer: 'Will this child be able to take the money from me? What if I need it for care and he's already used it for a trip to the Bahamas?' "

In some families, the situation is reversed, and adult children must step in to protect their parents' assets from the parents themselves. This may be necessary when parents are incapable of handling their affairs because of physical or mental illness, or when they are making decisions that jeopardize their financial future, says Dan Taylor, author of "The Parent Care Conversations."

He describes two ways to take control. One is a partnership arrangement where an adult child helps parents each month pay their bills and reconcile their affairs. This requires having a signature card at the bank to be an authorized signer. The other way, a general power of attorney, gives legal authority to manage their fiscal and personal affairs.

Calling financial exploitation a "massive social issue," Ms. Godfrey says, "Now that longevity is becoming a fact of life for many more families, we have to plan for it, not as an anomaly but as a reality that is going to affect the whole family. Happily, I see as many adult children helping their parents and grandparents deal with the longevity of their lives in a positive way as I see the dark side as brought to light by the Brooke Astor case."

Some advice for seniors

To help older people protect their finances, the New York State Bar Association's Elder Law Section offers these tips:

- Arrange for direct deposit of Social Security checks and other retirement benefits.
- Do not give anyone access to your ATM cards or passwords.
- Take great care in choosing someone to appoint as power of attorney and in completing or revising a will.
- Be careful about permitting family, friends, or tenants to live in your house. Have a written agreement about expectations of services to be performed or rent paid.
- Treat home attendants like employees, not friends.
- Keep valuables hidden if someone comes into the house on a regular basis.
- Maintain contact with family, friends, neighbors, and/or your community center. The more active you are, the less likely you are to be exploited.