

Elder Financial Abuse



By Jonathan Foxx

She was already in her late 90s, a renowned and beloved philanthropist, bearing a name that symbolizes wealth and status.

Her son was already a senior citizen, when he schemed to rob her of her independence, her wealth, her properties, and her dignity. She was suffering from Alzheimer's disease, chronic anemia, and other ailments that affect the elderly. Properties of great value were sold without the mother's knowledge, or with her dubious consent, and then no record was kept of the distribution of the proceeds. Roberta Brooke Astor died on August 13, 2007, at the age of 105.

On Nov. 27, 2007, indictments on criminal charges were announced against Mrs. Astor's son, Anthony D. Marshall, and attorney Francis X. Morrissey Jr.

The criminal charges were grand larceny, criminal possession of stolen property, forgery, scheming to defraud, falsifying business records, offering a false instrument for filing, and conspiracy in plundering Mrs. Astor's \$198 million estate.

The trial of Marshall and Morrissey started March 30, 2009, and on Oct. 8, 2009, the jury convicted Anthony D. Marshall of one of two charges of grand larceny, the most serious of a number of charges brought against

him. The grand larceny conviction carries a mandatory prison sentence, meaning that Marshall could spend between one and 25 years in prison. Francis X. Morrissey Jr. was convicted of forgery.

All the money and status did not protect Brooke Astor from the deprivations of her son. If this happened to her, then, for most of the elderly, lacking the benefits of money and status, how may these seniors hope to protect their financial interests from similar scurrilous plundering, when they are old and infirm?

The Consumer Financial Protection Bureau (CFPB) is involved in providing financial protection against elder abuse; indeed, it is specifically tasked with that responsibility.

The CFPB's Office of Older Americans is charged by the Dodd-Frank Act with examining certifications of financial advisors who serve elderly individuals and it plans to make recommendations to Congress on how to protect older consumers. Recently, the CFPB issued an Information Request regarding Senior Financial Exploitation.

In considering the challenges that the elderly must face in order to avoid financial abuse, I am providing an outline of the CFPB's recent Information Request. I am also offering a set of questions—revised from the Information Request so as to be relevant to loan originators—the answers to which may provide new ways and

means to protect seniors from the snares of financial predators.

Through proper review of procedures and a periodic self-assessment, companies should be able to train and sensitize its loan originators to the risks associated with senior financial exploitation.¹

The information request

Using statistics from a recent study, the CFPB noted that Americans aged 60 and up lost at least \$2.9 billion to financial exploitation in 2010 and that the total increased by 12 percent between 2008 and 2010. So, to be clear: in the study period, there was a 12 percent increase in the amount of money scammed from seniors! Also, women are more likely than men to be victims, and financial exploitation is most frequently perpetrated by family members and other persons in a position of trust.²

CFPB Director Richard Cordray gave a speech at the White House on June 14, 2012, discussing the issuance of the Information Request regarding elder financial abuse.³ Dodd-Frank includes provisions that are intended to directly address the needs of senior citizens.⁴ Cordray said that misusing credentials that certify a person as an advisor for elderly clients is a form of elder financial abuse, which instance he cites as but one reason for the information request.

According to Mr. Cordray, based on the study, for each case of elder finan-

cial abuse that is addressed, 42 actually go unreported. That is, only one reported case for every 42 unreported cases of financial exploitation!

Hubert H. ("Skip") Humphrey, who is the Assistant Director of the Office for Older Americans, has stated that the CFPB also plans to look specifically at the needs of senior veterans.⁵ And Naomi Karp, a Policy Analyst in the Office of Older Americans, has addressed the difficulty that older people may experience in finding trustworthy advice when they need it, though they may be suffering from age-related cognitive impairment.⁶

Categories

In the Information Request, the CFPB is seeking comments regarding certain areas that may affect senior financial exploitation:

- Evaluation of financial advisor certifications and designations.
- Providing financial advice and planning information to seniors.
- Certification and designation information sources.
- Financial literacy efforts.
- Financial exploitation of older Americans, including veterans of the Armed Forces.

Self-assessment⁷

1) Certifications and designations

1. What resources does the company provide to seniors for determining the legitimacy, value, and authen-

ticity of credentials held by its loan originators?

2. How effective are the company's existing resources at maintaining the legitimacy, value, and authenticity of credentials held by its loan originators?
3. How effectively do existing accountability controls deter the misuse of loan originator credentials? Examples: Accountability controls include revoking credentials, employment, public notices of disapproval or other disciplinary actions.

2) Providing loan originator information

4. What resources are available to explain the subject matter expertise presented or implied by specific loan originator certifications and designations?
5. How effective are publicly available means or the company's own resources at disseminating thorough, up-to-date information?
6. How effectively are seniors able to use available resources, public or institutional, to select a loan originator with appropriate knowledge to address their specific financial needs?

3) Certification and designation information sources

7. What sources of information are available on the fraudulent or misleading uses of senior certifications and designations?

4) Financial literacy

8. What financial education, counseling, or personal finance management programs are tailored by the company to the unique financial needs of older Americans and their families or caregivers?
9. Among these educational programs, what are the Best Practices in providing to seniors financial literacy and robust, practical information on personal finance management?

5) Financial exploitation of older Americans

10. What types of education and training are provided to loan originators to inform them of fraudulent, unfair, abusive or deceptive practices targeting Americans age 62 and over?

6) Financial exploitation of older veterans of the Armed Forces

11. What types of education and training are provided to loan originators to inform them of fraudulent or deceptive practices targeting older veterans and/or military retirees?
12. How does the company monitor itself regarding consumer protection measures relating to consumer financial products and services offered to, or used by, service members and their families?

The CFPB's Information Request comes as part of the World Elder Abuse

Awareness Day® activities held in June. Because there are a growing number of complaints to the CFPB regarding elder financial abuse, the CFPB will use the information it obtains to determine the various ways to prevent financial abuse of the elderly. By conducting a self-assessment similar to the one I have outlined, loan originators would demonstrate a culture of integrity and help to bring about appropriate, financial safeguards for senior citizens.

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Footnotes

- 1—Request for Information Regarding Senior Financial Exploitation, Request for Information, Consumer Financial Protection Bureau, Dated: April 27, 2012, Announced June 14, 2012.
- 2—Consumer Financial Protection Bureau launches inquiry on elder financial abuse, Press Release, Consumer Financial Protection Bureau, June 14, 2012.
- 3—Cordray, Richard, Remarks by Richard Cordray at World Elder Abuse Awareness Day Event, Consumer Financial Protection Bureau Speeches, June 14, 2012.
- 4—Section 1013(g)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of

2010 requires the Bureau of Consumer Financial Protection to facilitate the financial literacy of individuals aged 62 or older, on protection from unfair, deceptive, and abusive practices and on current and future financial choices, including through dissemination of materials on such topics.

- 5—Humphrey, Hubert H., Protecting Older Americans from Financial Abuse, Public Statement in CFPB Blog, CFPB June 14, 2012.
- 6—Karp, Naomi, New Federal Efforts to Combat Elder Financial Exploitation, Webinar, Consumer Financial Protection Bureau, June 6, 2012.
- 7—Op. cit. 1: My outline for conducting a self-assessment is drawn from certain features contained in the Request for Information, amended appropriately to apply to the unique needs of residential mortgage loan originators.
- 8—World Elder Abuse Awareness Day (WEAAD) was launched on June 15, 2006 by the International Network for the Prevention of Elder Abuse and the World Health Organization at the United Nations.