

## Protecting Yourself and Your Loved One Against Sweepstakes Scams and Financial Abuse

*By Lisa M. Neeley, Esq.*

Our practice group has recently been made aware of a financial scam being perpetrated against our most vulnerable clients. The scam begins when an individual receives a letter or notice in the mail informing them that they have won a monetary prize in a sweepstakes. Before claiming their prize, the individual must submit fees and paperwork to the company containing confidential information. Predictably, after sending the fees, no monetary prize is received and the company walks away with the victim's money and personal information. In some instances, the company will continue to bombard the individual with requests to submit more fees in exchange for an even greater monetary prize.

One such financial scam perpetrated against an elderly Holden resident was recently highlighted in a Worcester Telegram and Gazette article from January of 2012. The scam began when the woman received sweepstakes notifications in the mail indicating that she had won a cash prize. In order to claim her prize, she mailed fees and personal financial to the company. After submitting the fees, she never received a prize. Instead, the woman received even more requests to submit fees in exchange for a larger prize. The woman continued to submit fees to the sweepstakes companies for over a year. When her children were finally alerted to the scam, she had sent approximately \$400,000 to various sweepstakes companies. Police are investigating, but due to the nature of the crime, it will prove to be a difficult challenge for the woman or her family to recoup any of her funds.

This story raises awareness for families of vulnerable relatives that have chosen to be cared for at home. While there are many wonderful advantages to the ability to remain and be cared for at home, difficulties arise when children live out of state or become too consumed with the challenges of their own lives to constantly monitor their parents' ailing health and financial wellbeing. In some instances, vulnerable individuals may refuse help from well-intentioned children or other family members or friends because they are too proud to admit that they are having trouble managing their financial affairs. Others prefer to keep their finances a private affair.

Ensuring that a loved one has executed a durable power of attorney can go a long way toward preventing financial abuse as an individual begins to decline. A durable power of attorney is a legal document whereby an individual appoints an agent, or attorney-in-fact, to make financial decisions on their

behalf. The durable power of attorney can take effect either immediately, or when a doctor certifies that an individual is incapable of managing his financial affairs.

An attorney-in-fact is typically granted broad authority to take charge of an individual's finances. This can include receiving all bank statements on a monthly basis to monitor account information and ensure that the individual is not making large, unexplained cash withdrawals or sending checks to unknown recipients. The attorney-in-fact can also communicate directly with bank representatives or financial advisors regarding the state of the individual's financial affairs. If there is a concern that the individual is falling victim to a sweepstakes or similar mail scam, the attorney-in-fact can arrange with the post office for mail to be diverted to a post office box or alternative safe address where it can be reviewed before being delivered to the individual. An attorney-in-fact can also hire a money manager or geriatric care professional to assist in the management of the individual's finances.

If a declining individual does not have a power of attorney, has fallen victim to a financial scam, and is refusing assistance, it may become necessary for a family member or other trusted friend to petition a probate court to be appointed conservator. A conservatorship grants the petitioning family member with broad authority to manage the individual's financial affairs. However, unlike with a durable power of attorney, the conservatorship is monitored by the probate court. Under a broadly construed conservatorship petition, the conservator will typically have the legal ability to receive all of the individual's bank account statements, pay bills, close credit card and other accounts, and generally take any action that would be in the individual's best financial interest. The conservator will also be responsible for providing an accounting of all of the individual's financial transactions to the probate court so as to prove to the court that their finances are being adequately managed.

Having a power of attorney in place can go a long way to preventing the financial abuse befalling our most vulnerable citizens through predatory sweepstakes scams. In some instances, court intervention through the appointment of a conservator may be necessary to prevent ongoing financial abuse. Taking these actions can prevent devastating cases of financial abuse that are unfortunately becoming far too common.

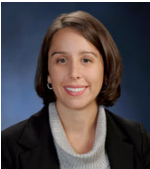
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