

Safe Seniors

Newsletter for the Prevention of Elder Abuse in San Diego County

Consumers Beware

Foreclosure Rescue Might Be a Scam

From U.S. Trustee Program
U.S. Department of Justice

Are you having trouble making your home mortgage payments? Are you facing foreclosure on your home? Get all the facts before you pay someone to help you work out your mortgage problems.

“Bankruptcy foreclosure scams” target people whose home mortgages are in trouble. Scam operators advertise over the Internet and in local publications, distribute flyers, or contact people whose homes are listed in the foreclosure notices. Sometimes they direct their appeals to specific religious or ethnic groups.

These scam operators may promise to take care of your problems with your mortgage lender or to obtain refinancing for you. Sometimes they also ask you to pay your mortgage payments directly to the scam operator. They may even ask you to hand over your property deed to the operator, and then make payments to the operator in order to stay in your home.

But instead of contacting your lender or refinancing your loan, the scam operator pockets all the money you paid, and then files a bankruptcy case in your name — sometimes without your knowledge.

A bankruptcy filing often stops a home foreclosure, but only temporarily. If a bankruptcy is filed in your name but you don't participate in the case, the judge will dismiss the case and the

foreclosure proceedings will continue.

If this happens, you will lose the money you paid to the scam operator — and you could lose your home. You will also have a bankruptcy listed on your credit record for years afterward.

Proceed with care if an individual or company:

- Calls itself a “mortgage consultant,” “foreclosure service,” or similar name.
- Contacts or advertises to people whose homes are listed for foreclosure.
- Collects a fee before it provides services to you.
- Tells you to make your home mortgage payments directly to the individual or company.
- Tells you to transfer your property deed or title to the individual or company.

If you can't pay your mortgage, call your mortgage lender or contact a lawyer for help. Your state or local bar association may be able to help you find low-cost legal help.

If you think an individual or company is running a mortgage foreclosure scam, contact the local office of the United States Trustee. The United States Trustee is a Justice Department official who monitors the bankruptcy system. Look for your local United States Trustee's telephone number in your telephone directory or on the Web site at www.usdoj.gov/ust.

Local Prosecutor Testifies About Elder Abuse

In July, Deputy District Attorney Paul Greenwood went to Washington, D.C., to testify before the Senate



Paul Greenwood

Special Committee on Aging in support of Senate Bill 1577, the Patient Safety and Abuse Prevention Act of 2007, and in support of the Elder Justice Act. Greenwood is the chief of the

San Diego County District Attorney's Elder Abuse Prosecution Unit.

Senate Bill 1577 would establish a nationwide system of background checks to prevent those with criminal and elder abuse histories from being hired in nursing homes and other long-term care facilities. The legislation is modeled on a successful seven-state pilot program that linked state and federal registries with a federal criminal background check to screen out potentially harmful employees.

The pilot program, now completed, identified and excluded more than 5,000 individuals with criminal histories from working in long-term care facilities in those seven states.

“We should be very concerned at the fact that convicted felons can easily get employment working as caregivers,” Greenwood told the Senate committee. “Surely, more can be done to protect the unsuspecting

The Elder Abuse Reporting Line: 1-800-510-2020

(PROSECUTOR -- Continued on Page 4)

Electrical Repair Scam Is Costly

The District Attorney's Elder Abuse Prosecution Unit and the Contractors State License Board are looking for people who may have been overcharged by a company called American Electric.

Recently Paul Greenwood, who heads up the DA unit, has become aware of several elderly homeowners who saw an ad in the Yellow Pages and called for electrical repair service after having difficulties with a power outage. In most cases, the only problem was a tripped circuit breaker, usually an easy fix. The "technician" who responds may suggest that the panel of circuit breakers needs a "tune up" and may charge between \$1,100 and \$1,800 for that service.

The Yellow Pages ad may have different company names, but ultimately someone from American Electric responds. If you have received such a home call and believe that you may have overpaid American Electric, Paul Greenwood would like to hear from you. He can be reached at (619) 531-3464.

Rights for Nursing Home Patients

*By Lois Kelly, Esq., Managing Attorney
Elder Law & Advocacy*

As today's population ages and lives longer than previously, the possibility of an elder spending time in a nursing home becomes more real.

A nursing home resident has individual rights guaranteed under both federal and California law. These laws cover a variety of rights from privacy for telephone calls and visits from family, clergy, and doctors, to the right not be restrained physically or chemically through drugs.

When a resident does not have capacity to protest a violation of one of these rights, the relative or friend listed as the resident's representative on the admission application should raise the violation, both with the administrator of the facility and/or director of nursing, and if the violation is egregious or creates a health or safety problem, with the Licensing and Certification Department of the California Department of Health Services. Calling or speaking in person to the administrator or the director of nursing is not enough; always 'put it in writing.' Be aware that talking to a CNA (certified nursing assistant) does not guarantee that

(RIGHTS -- Continued on Page 3)

SEC: 'Free Lunch' Seminars Perilous for Seniors

During a recent Seniors Summit held at the Securities and Exchange Commission, securities regulators released a joint report summarizing the results of their examinations of "free lunch" investment seminars.

The year-long examination was conducted by the SEC, the Financial Industry Regulatory Authority (FINRA) and state securities regulators. The regulators scrutinized 110 securities firms and branch offices that sponsor sales seminars and offer a free lunch to entice attendees.

The report's key findings include:

- 100 percent of the "seminars" were instead sales presentations. While many sales seminars were advertised as "educational," "workshops," and "nothing will be sold," they were intended to result in the attendees' opening new accounts and, ultimately, in the sales of investment products, if not at the seminar itself, then in follow-up contacts.

- 50 percent featured exaggerated or misleading advertising claims.

Examples included "Immediately add \$100,000 to your net worth," and "How \$100K can pay 1 Million Dollars to Your Heirs."

- 23 percent involved unsuitable recommendations. In 25 of the 110 examinations, unsuitable recommendations were made: a risky investment recommended to an investor with a "conservative" investment objective, or a nonliquid investment recommended to an investor with a short-term need for cash.

"These findings are a wake-up call for securities regulators, the financial services industry and especially older investors," said SEC Chairman Christopher Cox.

Free lunch sales seminars are routinely targeted at seniors and are commonly held at hotels, restaurants and retirement communities. FINRA Investor Education Foundation research found that 78 percent of seniors received a free lunch seminar invitation and 60 percent received six or more invitations in the last three years.

Free lunch seminars often have names like "Seniors Financial Survival Seminar" or "Senior Financial Safety Workshop," and offer "free" advice by "experts" on how to attain a secure retirement. The advertisements often imply that there is an urgency to attend: "limited seating available."

The study was done between April 2006 and June 2007 in states with large populations of retirees: Florida, California, Texas, Arizona, North Carolina, Alabama and South Carolina.

The report's recommendations:

- Financial services firms should take steps to supervise sales seminars more closely, and redouble their efforts to ensure that the investment recommendations are suitable in light of the particular customer's objectives.

- Ongoing investor education efforts for seniors should provide education with respect to "free lunch" sales seminars. Specifically, senior investors should understand that these are sales seminars that result in the sales of financial products.

Update on California Elder Abuse Measures

Of the elder abuse bills considered by the California Legislature this session, only one (SB 183) has been approved by both houses and signed by the governor. Other bills will be studied further and possibly reconsidered next session. For more details: www.sandiego.networkofcare.org/aging and click the "Legislate" button.

SB 183 (Corbett): Signed by the governor. Provides that after the death of an elder or dependent adult, the right to maintain a civil action for relief arising out of the abduction or abuse of an elderly or dependent adult shall pass to an intestate heir whose interest may be affected by the action or to the decedent's successor in interest subject to specified conditions.

The following bills have passed one house of the Legislature, but have been held for further review:

AB 978 (Benoit): Establishes standards and timelines for enforcing serious health and safety violations at community care facilities.

SB 489 (Steinberg): This bill imposes requirements on continuing care retirement communities in the event of their closure. The bill would require the State Department of Social Services to monitor the implementation of the closure and relocation plan to ensure full compliance by the provider. The bill would also prohibit a provider from taking any action to displace a resident until the department has reviewed and approved the plan.

SB 573 (Scott): Requires life insurance companies and agents to determine the suitability of an annuity product for the particular senior customer before selling the policy.

The following bills have not progressed and may be dead:

AB 378 (Benoit): Makes a subsequent conviction of theft, embezzlement, forgery, fraud, or identity theft, regardless of the value, by a caretaker against an elderly or dependent adult punishable by 2, 3, or 4 years in state prison or by a county jail term of up to one year.

AB 853 (Jones): Enacts the Home Care Services Act of 2007. Provides for licensure and regulation of home care organizations. Requires a home care organization to inform a client of advance directive policy and provide a written notice to the client of certain rights. The bill would require a home care organization to conduct background clearances on home care aides. The bill would also require a home care organization to conduct regular evaluations of its aides, and to ensure that aides demonstrate basic competency in certain areas.



(RIGHTS -- Continued from Page 2)

the problem will be passed on to the administrator or director of nursing. Having the complaint in writing also helps where the problem is not resolved satisfactorily; the written communication to the facility's representative will show that the facility has been made aware of the problem.

One of the biggest problems experienced by nursing home residents is when the resident is sent to the hospital, and when he or she is ready to return to the facility, the facility will not take the resident back. This action encompasses two violations of federal and state law: (1) When a resident leaves the facility to go to a hospital, the facility has to give the resident and his/her representative a 7-day bed hold. The resident or representative must agree to this 7-day bed hold. If the resident pays privately, the room rent must be paid. If the resident is on Medi-Cal, they have a right to the first available bed. (2) A resident can be evicted, if the federal and state laws are followed. A 30-day eviction notice must be given prior to the resident leaving the facility, such as going to the hospital. Further, the facility has to evaluate the resident and help the resident or representative find a suitable facility to meet the resident's needs and ensure the new placement is proper and agreeable to all.

When the facility refuses to take the resident back, the resident or representative should call the Department of

Health Services, (800) 824-0613, to lodge a complaint. A hearing officer assigned to the case will review the resident's records and look for a copy of the 7-day bed hold and an eviction notice. If the hearing officer determines that there is a basis for a hearing, one will be set. The facility will have an opportunity to give the reason for refusing to take the resident back. The resident or representative may give the resident's position regarding the incident. If the facility did not follow the law regarding the 7-day bed hold and the eviction, it must take the resident back. A facility which violates state laws protecting a patient's right is liable for a fine up to \$500 per violation.

Elder Law and Advocacy's (EL&A) Nursing Home Rights Enforcement Project will advocate for a resident age 60 or older, if the facility refuses to take the resident back. If EL&A is unsuccessful in its efforts to convince the facility to allow the resident to return to the facility, EL&A will attend the Department of Health Services hearing as the resident's representative.

If you have any questions regarding a nursing home facility resident who is age 60 and older, call (858) 565-1392, and ask for staff attorney Andrew Thompson.

Elder Law & Advocacy, a nonprofit corporation, provides no-cost routine legal services to seniors and relative caregivers of seniors. Call (858) 565-1392 for an appointment with an attorney.



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Elder Abuse Prosecutions

District Attorney's Office

Lynetta Denson: Pled guilty to felony elder abuse. She worked as a caregiver to a couple who are in their 80's, and stole two checks while she was in their home. She tried to cash one of them. She was sentenced to 180 days of local custody, plus three years probation.

LaJuana Doakes: Pled guilty to felony burglary after stealing from her 67-year-old roommate. He had asked her to help him with his online banking. He gave her his PIN number and later discovered that his account was overdrawn. The defendant admitted to using his ATM card and promised to pay him back, but never did. She was seen on video at two locations using the victim's card. She was sentenced to 120 days of local custody and three years of probation, and to pay restitution of \$867.25.

SD City Attorney's Office

Roderkus Wright: Convicted during a jury trial of domestic battery on his girlfriend and battery on her 87-year-old grandmother. Defendant and his girlfriend were residing in the grandmother's home rent free. Essentially, the defendant and his girlfriend took over the victim's home. The defendant, while battering his girlfriend, hit her

grandmother in her chest causing her to have chest pains. The defense tried to argue that the grandmother was confused and making things up, but the jury believed her. The defendant was sentenced to local jail and put on three years probation. He was also ordered to have no contact with the grandmother and stay at least 100 yards away from her at all times.

(PROSECUTOR -- Continued from Page 1)

public from hiring felons to look after an aging relative. Additionally, we should evaluate whether state laws relating to physical and financial elder abuse are correctly earmarked as felonies rather than as misdemeanors."

He also urged passage of the Elder Justice Act, which would create a greater nationwide awareness of elder abuse including funding for Adult Protective Services.

He talked about the many collaborations among law enforcement and social services agencies in San Diego County and suggested other communities throughout the country should consider developing similar projects, such as the Elder Death Review Team, the Financial Abuse Specialist Team, and specialized police units devoted to elder abuse crimes.