

WISER/NAPSA *Just the Facts*

SENIOR FINANCIAL ABUSE: ANNUITY AND LIVING TRUST SCAMS



Introduction

Senior financial abuse scams are a multi-billion dollar "industry." Studies estimate the annual financial loss nationwide to be around \$2.9 billion¹. In a recent New York State study, estimated annual losses for seniors in a subsample of New York State districts fell between \$352 million to \$1.5 billion, suggesting the national total may be substantially higher than previously estimated.² Although it can be difficult to measure the exact extent of the total financial loss, we know that these crimes are on the rise and continue to deprive seniors of their savings and assets. These figures do not account for the tens of billions spent on indirect costs for medical care, social services, and legal costs, or for the pain and suffering of the victims. Victims are not only older people, but also their families and all who provide services and financial assistance.

All seniors, regardless of income, are at risk. Financial abuse may be perpetrated by anyone—a professional con artist, a paid caregiver, a stranger or casual acquaintance, or even a son, daughter, or other family member.

The following factors contribute to the prevalence of senior financial abuse:

- ☐ A high percentage of seniors live alone and may be more vulnerable to scams.
- ☐ Seniors may be trusting and readily believe the sales "pitches" they hear.
- ☐ The population of seniors is increasing, providing a continuous source of wealth for financial abusers.

Education and awareness are two key strategies to preventing and responding to elder financial abuse. This fact sheet looks at annuity and living trust scams, and provides resources to keep seniors from falling victim to these financial traps.

ANNUITY AND LIVING TRUST SCAMS

Scammers coerce seniors into buying financial products they may not need, at a high cost or as a means of stealing seniors' assets.

Annuity and Living Trust Scams

Annuities and living trusts are well-established legal products that can help provide economic security to seniors. But some unscrupulous con artists target seniors to buy these products at a high cost or to raid their assets. They target seniors through telemarketing, door-to-door sales, “free” seminars, and advertisements.

What is an Annuity?

An annuity is a contract between a buyer and an insurance company that requires the insurer to make payments to the buyer, either immediately or in the future. The buyer purchases an annuity by making a single payment or a series of payments. The payout may come either as one lump-sum payment or as a series of payments over time.

What is a Living Trust?

A living trust is a legal estate planning tool that transfers a person’s assets, while still living, into a trust that holds the assets until death. Assets are then distributed at the time of death to beneficiaries without going through “probate”, which is the court-supervised process of settling debts and distributing property.

Common Annuity Scams

Twisting: An unscrupulous agent convinces a senior to exchange an annuity from one company to an annuity from another company. The senior ends up paying high surrender charges and is often left with a worthless product. The agent gets a big commission on the sale.

Churning: A dishonest agent offers an annuity policy that is supposedly better than the one the senior owns. The senior ends up paying more for no extra value, while the agent collects a big commission.

Common Living Trust Scams

Living Trusts as a Pretext: The scammer will sell a living trust to a senior to access information about the senior’s assets. The scammer will then try to sell the senior unneeded or worthless financial products or attempt to steal the senior’s assets.

Misleading Statements: The scammer will make false or misleading claims about the benefits of living trusts, such as they reduce estate taxes (misleading), they will help the senior qualify for public assistance (false), or they help avoid creditors (false).

How to Recognize an Annuity or Living Trust Scam

Indicators of an Annuity Scam:

- ☒ The senior is unlikely to live to collect the annuity.
- ☒ The annuity makes up more than 35% of the senior’s assets, not counting home value.

1 The MetLife Mature Market Institute. *The MetLife Study of Elder Financial Abuse*. June 2011.

2 New York State Office of Children and Family Service. *The New York State Cost of Financial Exploitation Study* June 15, 2016

- ❑ The surrender penalty (when a senior cashes in early) is above 14% of the principal payment.
- ❑ The same agent has sold the senior multiple annuities.

Indicators of a Living Trust Scam:

- ❑ Pages of the trust document appear as if the senior's name was simply cut and pasted electronically throughout the document.
- ❑ The invoice included in the trust documents indicates that it was sold, prepared, or delivered by a non-attorney, e.g., a notary, paralegal or sales agent.
- ❑ The cost of the living trust is less than \$1,000.
- ❑ The living trust was sold at a seminar, especially one offering a “free lunch” or other incentive to attend.
- ❑ The senior never met with an attorney or the trust was delivered directly to the home.
- ❑ The senior either cannot recall who sold the living trust or states that many agents were involved in the transaction.



If a Senior Falls Victim to an Annuity or Living Trust Scam

If you see any of the indicators of an annuity or living trust scam, conduct a thorough review and investigate:

- ❑ Was the senior coerced into buying this annuity or living trust?
- ❑ Was the senior capable of understanding the provisions of the annuity or living trust?
- ❑ Did the seller claim to have “special designations” such as Registered Financial Gerontologist?

If there are any signs of wrongdoing, immediately file a report with the police department where the crime occurred.

ADDITIONAL HELPFUL RESOURCES

Many public agencies are involved in preventing and detecting senior abuse and in prosecuting those who commit it. Many organizations are also dedicated to educating seniors on these topics:

- ❁ **National Center on Elder Abuse** www.ncea.acl.gov
State Resources: Helplines, Hotline and Information.
- ❁ **Consumer Financial Protection Bureau** www.consumerfinance.gov
Ensures that consumers get the information they need to make sound financial decisions.
- ❁ **Federal Trade Commission** www.ftc.gov
Protects consumers from unfair, deceptive and fraudulent business practices.
- ❁ **Financial Industry Regulatory Authority (FINRA)** www.finra.org
Independent regulator of all securities firms and provides resources for financial investing
- ❁ **National Academy of Elder Law Attorneys** www.naela.org
Find attorneys specializing in Elder and Special Needs law.
- ❁ **Postal Inspection Service** www.postalinspectors.uspis.gov
Investigates domestic and international fraud which uses the U.S. Mail.
- ❁ **The Securities and Exchange Commission (SEC)** www.investor.gov
Investigates securities fraud. **1-800-732-0330**

WISER AND NAPSA

partner to provide valuable information to seniors,
caregivers, families and communities across the nation.

National Resource Center on Women and Retirement Planning



The Women's Institute for a Secure Retirement (WISER), in partnership with the Administration on Aging, operates the National Resource Center on Women and Retirement Planning. The Center provides user-friendly financial education and retirement planning tools for low-income women, women of color, and women with limited English speaking proficiency.

WISER's mission is to educate women about the issues that affect their long-term financial security and highlight the importance of taking an active role in planning for retirement. WISER offers tools and resources on the topics of Social Security, retirement plans, savings and investments, banking, caregiving, divorce and widowhood, and long-term care.

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(202) 393-5452
www.wisewomen.org



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Suite 1200
Springfield, IL 62704
(217) 523-4431
www.napsa-now.org

National Adult Protective Services Association

The goal of the National Adult Protective Services Association (NAPSA) is to provide Adult Protective Services (APS) programs a forum for sharing information, solving problems, and improving the quality of services for victims of elder and vulnerable adult mistreatment. Its mission is to strengthen the capacity of APS at the national, state, and local levels, to effectively and efficiently recognize, report, and respond to the needs of elders and adults with disabilities who are the victims of abuse, neglect, or exploitation, and to prevent such abuse whenever possible.

National Institute
on Elder Financial Exploitation

NAPSA also operates the National Institute on Elder Financial Exploitation (NIEFE), the first national clearinghouse to focus on the complex issues of elder financial abuse.