

Living Trust Mills and Annuity Scams

by Virginia M. George

Not long after the Elder Law Clinic at John F. Kennedy University commenced operations in August 2005, calls from senior citizens regarding con artists who fraudulently sold trusts and annuities to them began to stream in. It is an unfortunate fact that a growing senior population and accumulated wealth make the East Bay a big market for cleverly disguised predators who use charm, deception and even fear as methods to beguile seniors into signing up for trusts that are commonly invalid and annuities that are risky and inappropriate for an elderly person.

Consumers -- particularly seniors and their families -- should be wary of these scam operations. Seniors pay substantial sums of money to sales agents for living trust mills. Through fraud, the agents can damage seniors' estate plans and impair their investments and life savings.

In one of the most egregious examples of a living trust mill/annuity scam that targeted vulnerable seniors, Insurance Commissioner John Garamendi and Attorney General Bill Lockyer filed a lawsuit in February 2005 seeking more than \$110 million in penalties, restitution and damages from the operators of the scam.

According to the complaint, the defendants tricked their victims through a complex business plan that used a multiple-step process. They visited seniors under the guise of offering estate planning services. In reality, the defendants used the meetings to gather information about the seniors' finances and to gain their trust and confidence. When representatives later delivered the estate planning documents, they then used the financial information submitted for the documents to pitch unnecessary annuities.

The agents told the seniors that their existing investments were no good, and then induced them to sell their existing investments and purchase the annuity policies. The seniors often did so, believing that the agent had expertise in estate planning and was acting in their best interests. Investigators found that the agents were really there to sell annuities in order to gain lucrative commissions, regardless of the damaging impact purchasing annuities had on the seniors' financial situations.

Oftentimes, sales representatives of the annuities will not reveal the drawbacks of these products. For instance, many seniors (particularly those with serious health problems) will likely never be able to benefit from the annuities they purchase because the period of maturation is so long, sometimes 15 to 20 years. Early withdrawal of funds often precipitates heavy financial penalties.

To avoid becoming victims of living trust mills and their scams, consumers should recognize:

- *Living trust mills' sale agents are not attorneys and are not experts in estate planning;
- *Documents in the trust packages may not comply with California law;
- *Sales agents may not follow legal procedures for executing or witnessing wills and other documents, making the documents subject to challenge;
- *Companies that sell trusts and also try to sell annuities or other investments may be con artists.

Scams of this nature cut across the economic board for elderly victims. Seniors who cannot afford legal counsel once they are victimized are in an even worse position. As such, attorneys who can render *pro bono* assistance to seniors who have been victimized in such a heinous manner are in high demand. Given an increasing senior population, our community will need to provide more legal services in the future in order to combat these financial predators.

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