

Project Colorado

# Before the Money Is Gone

## PREVENTION OF ELDER FINANCIAL ABUSE

*A program designed to train personnel of financial institutions to spot and report financial abuse of the elderly and at-risk adults . Patterned after similar programs enacted in Massachusetts and Oregon, this program is meant to aid financial institutions in developing tools to prevent financial exploitation.*

Sponsored by

**The Colorado Coalition for Elder Rights and Adult Protection**



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## FOREWORD

*Before the Money is Gone* is a program that seeks to prevent elder and at-risk adult financial exploitation by fraud perpetrators. Prevention initiatives, including community education and security measures are of benefit to financial institutions and the customers they serve.

*According to the financial services industry nationwide, fraudulent activities cost depository institutions tens of billions of dollars each year. Older account-holders are special targets, and intervening on their behalf prevents more than just the loss of funds. Emotionally, such victimization is devastating, and recovery can be painful. Some have no other recourse but to go back to work, and many older victims never psychologically recover. Banks, thrifts, and credit unions that work diligently to prevent financial exploitation report other important advantages such as positive community relations and heightened job satisfaction among their employees in their efforts to protect their customers and communities. As the population of older customers increases, so too will incidences of financial exploitation and larger financial losses to the industry. It is incumbent upon the financial industry to increase vigilance and take action against this egregious crime.*



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## KEY TERMS

- 1. Elder:** A person aged 60 and older
- 2. At-risk Adult:** In Colorado, under C.R.S. Title 18, an at-risk adult is any person 60 years of age or older, or any person who is 18 years of age or older and is a person with a disability, as defined in C.R.S. 18-6.5-102(3)
- 3. Exploitation:** The illegal or improper use of an elder/at-risk adult's resources for another person's profit or advantage.
- 4. Financial exploitation** occurs when a person acts or fails to act in a way that causes a *substantial* monetary or property loss to an *elder/at-risk adult*, or causes a benefit to the person that should normally go to the elder/at-risk adult. This is accomplished without the elder/at-risk adult's consent, or when the elder/at-risk adult is deceived, intimidated or forced into giving consent. *Financial exploitation of elders and at-risk adults may occur in concert with other forms of exploitation, abuse and neglect.* Substantial loss is defined within the context of the individual's financial situation. For example, a loss of \$30 a month may be substantial if the elder/at-risk adult is unable to afford food or rent as a result.
- 5. Valid consent** requires that the elder/at-risk adult have the mental ability to understand what is happening. An elder/at-risk adult who is confused and demented, and does not have the mental ability to give consent, has *not* given consent.
- 6. Consumer Fraud** occurs whenever a person or business engages in unfair/deceptive trade practices, such as misleading advertisements, sales and substandard merchandise, or violation of regulatory guidelines by the insurance, health care or home repair industry.
- 7. Penalties/Convictions under At-Risk Adult Statute (Colorado Criminal Code Class 3 Felony Theft):** Persons convicted are subjected to penalties ranging from 10-32 years in prison, a fine up to \$750,000 or both.
- 8. Colorado Consumer Protection Act -** Civil penalties of \$10,000 maximum per violation.

# TYPES OF FINANCIAL FRAUD

## TYPE 1

### PERSONAL RELATIONSHIP

SUSPECT is known to victim; may be family member, friend, caregiver, acquaintance or fiduciary.

### VICTIM

ELDER: person 60 or over; or AT-RISK ADULT (anyone 18 years of age or older) who, due to age or disability, is unable to protect him/herself.

### EXPLOITATION

Includes: theft, forgery, undue influences, misrepresentation and fraud; is often combined with other forms of abuse and neglect.

SUSPECT acts or fails to act in a way that causes monetary or property loss to the elder/at-risk adults and gain to self.

FINANCIAL EXPLOITATION is sometimes combined with other forms of abuse and neglect and may include:

- ε mismanagement of income or assets
- ε signing of checks or documents without elder/at-risk adult's consent
- ε charging excessive fees for rent, home repair, in-home care or other services
- ε stealing money or property
- ε obtaining money or property without authorization by threat or deception

## TYPE 2

### CONSUMER SCAMS

SUSPECT is a stranger to the victim and employs person-to-person scams, and/or mail fraud, telefraud or the Internet to obtain money.

### VICTIM

No age requirements.

### COMMON SCAMS

*The Bank Examiner:* Victim is asked by fake bank examiner to withdraw money as part of alleged investigation into teller fraud.

*Latin Lottery/Pigeon Drop:* Con claims to hold a winning Colorado Lottery ticket but can't cash it because con is in the U.S. illegally. . . is willing to split proceeds with victim, if victim makes 'good faith' payment. **Colorado Lottery doesn't require proof of citizenship!**

*Foreign Lotteries: Is illegal in the U.S.!* The 'winner' of a foreign lottery is always asked to send money 'for taxes' before prize money is released.

*Identity Theft:* The victim's personal ID information, i.e., Social Security, birth date, bank or credit card accounts is stolen and the information used to commit crimes or make purchases in the victim's name.

*Home Repair Scams:* Cons appear at the victim's home with an offer to paint, roof, pave or provide other repairs at an unbelievable rate. The offer includes a demand for an immediate payment up front and high pressure to act now. The cons take the money, fake a repair job and leave the victim out of pocket.

# 4 HOW TO RECOGNIZE FINANCIAL EXPLOITATION

## *Employee Check-off Sheet . . .*

### **FRONT LINE EMPLOYEES**

**Be Suspicious** if older accountholder:

- ρ Appears unkempt with diminished capacity or self-esteem;
- ρ Gives implausible explanations regarding use of money;
- ρ Requests large sums of money for prize pay-outs;
- ρ Is concerned or confused about “missing funds” in account;
- ρ Is unable to understand recently completed transactions;
- ρ Repeatedly asks the same questions;
- ρ Withdraws a sum of money that is unusually large for him/her;
- ρ Is concerned about being evicted or institutionalized if “caregiver” not paid;
- ρ Is confused about executing a Power of Attorney – unsure what it’s about;
- ρ Doesn’t understand repercussions of actions he/she took , e.g., “quit claim”;
- ρ Has unemployed family members living with them;
- ρ Is accompanied by a stranger who:
  - © is encouraging him/her to withdraw a large sum of cash;
  - © is coercing him/her to transact;
  - © seems too interested in affairs;
  - © does not allow him/her to speak;
  - © makes him/her nervous or fearful;
  - © makes him/her hesitant to enter into the conversation.

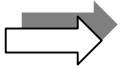
### **INTERNAL AUDITORS**

**Be Suspicious** if:

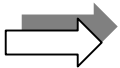
- ρ The account shows a change in pattern of withdrawals;
- ρ There are large withdrawals from previously inactive accounts;
- ρ There are large withdrawals or transfers from new *joint* accounts;
- ρ There are sudden, and/or frequent (daily) withdrawals from ATM’s;
- ρ The institution receives calls from other banks, stores;
- ρ Signature seems forged or suspicious;
- ρ Amounts are written in different handwriting, or ink;
- ρ Stable single beneficiary trusts are revoked;
- ρ Regular rent or utility payments stop abruptly;
- ρ Monthly statements have been redirected to a different address;
- ρ Loans or second mortgages are obtained;
- ρ There is questionable activity on credit cards, bounced checks, etc.;
- ρ There are frequent, inappropriate purchases, e.g., car stereo, etc.;
- ρ A fiduciary or other person begins handling customer’s account.

## HOW TO RESPOND IF FINANCIAL EXPLOITATION IS SUSPECTED

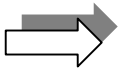
### *Step by Step Reporting Process . . .*



Employee (front line and auditor) acts when faced with a suspicious situation, as presented on previous page.



Head of Security acts as a clearinghouse for reports to Adult Protective Services (APS) and to Law Enforcement. **Security decides whether and where to report each case.**



Security reports to Law Enforcement or A PS if there is reasonable cause to believe that financial exploitation is occurring. **Suspicion is enough – Security does not have to confirm exploitation.**

- A. The oral report to APS or law enforcement must be followed by a written report within 24 hours (It is not necessary to include detailed financial information in the content of the report in order to report suspicions);
- B. The written report(s) should also be filed for internal review within the financial institution.
- C. The contents of the report that goes to law enforcement must include the name, address and phone number of who was exploited, who the exploiter was and a brief description of the scam.

**Note:** Procedures commonly vary by institution. Employees should follow the procedures in place by employer.

## POWER OF ATTORNEY - WHAT FINANCIAL INSTITUTIONS NEED TO KNOW

**Power Of Attorney (POA)** - Written authority the *principal* (person requesting the POA) gives the *agent* (person granted the POA) to act on the principal's behalf.

### TYPES:

**Financial Power of Attorney:** A Financial POA allows the agent to carry out financial tasks for the principal such as paying bills, managing property, and handling other money matters.

**Medical Power of Attorney:** A Medical POA limits the authority of the agent to only making medical or health-related decisions for the principal.

### SCOPE:

**Limited Power of Attorney.** A Limited POA authorizes the agent to do specific things for a limited period of time, or in certain circumstances. The limited POA ends if the principal becomes incapacitated or dies; or at a time specified in the document by the principal.

**General Power of Attorney.** General POA gives the agent the authority to do whatever the *principal* can do. It should be used sparingly. This document ends when the principal becomes incapacitated or dies.

**Durable Power of Attorney.** A Durable POA authorizes the agent to continue to act for the *principal* after the *principal* becomes incapacitated. The POA ends when the principal dies, and can take effect as soon as the principal signs it.

**Springing Power of Attorney:** A Springing POA is written to go into effect under clearly defined circumstances, such as the point at which the principal becomes incapacitated. Corroborating documentation such as a doctor's statement should accompany the POA.

**Note: Financial institutions are not obligated to accept a Power of Attorney if it doesn't appear to be credible.** A forged or out-of-date POA can be used as the vehicle for victimizing elders. Many frauds could be prevented if a POA was scrutinized more carefully.

### What to look for:

- Date - is it "fresh"? A POA is thought to be current if the date is within the last six months. A POA dated after three years is considered "stale".
- Corroborating documentation: Again, a doctor's letter attesting to the Principal's medical condition and level of competence is important. Is the POA notarized? Does it have an accompanying affidavit?
- Accept only original documents; no copies. **When in doubt, ask in-house attorney!**

## **APPENDICES**

## QUESTIONS AND ANSWERS ABOUT COLORADO'S REPORTING STATUTE

A Colorado statute specifically urges personnel of financial/depository institutions to report possible cases of financial exploitation. Here is a brief explanation of the law:

### ***If you suspect a customer is being taken advantage of, can you report that?***

Depository institutions are specifically urged by Colorado law to report financial abuse of at-risk adults, including elderly and disabled persons. *Colorado Revised Statute* (CRS) §26-3.1 - 102(1)(b)(XIII).

### ***What is exploitation?***

The statute defines exploitation as the illegal or improper use of an at-risk adult's resources for another person's profit or advantage.

### ***Who is covered by the statute?***

The statute covers elders and at-risk adults, defined as individuals at least 18 years old who are susceptible to mistreatment and lack sufficient understanding to make responsible decisions regarding his or her affairs.

### ***Where should reports be made?***

If you have reasonable cause to believe an at-risk adult has been or is about to be abused, you should immediately (within 24 hours) Call the County Department of Social/Human Services, or if after hours, the local law enforcement agency (police or sheriff). Report the following types of information, if known; the name and address of the at-risk adult and his or her caretaker; the at-risk adult's age; the nature of the injury and condition likely to lead to mistreatment; and other pertinent information. If warranted, your call will be forwarded to the district attorney and local law enforcement. The Department of Social Services must also formally investigate the abuse charge and conduct a face-to-face interview with the alleged victim.

### ***Can you be held liable if a report you filed turns out to be unwarranted?***

Any person who makes a report is immune from civil or criminal liability unless the report is made in bad faith or in reckless disregard for the truth. The report remains confidential, and the name and address of the informant, caretaker and the at-risk adult may be disclosed only when authorized by a court for good cause. Since the statute identifies depository/financial institutions as one of the parties who are specifically urged to report on financial abuse, it is highly unlikely a financial institution could ever be held liable for making a report. There is no known case of financial institution being sued for making a report under the statute since it was enacted in 1991. *Colorado Revised Statute* (CRS) §26-3.1 - 102(5).

# Customer Alert Form

In an effort to protect you from becoming a victim of fraud or exploitation, we ask you to read this form carefully. Please feel free to ask our staff **any** questions you may have.

1. Are you under pressure RIGHT NOW to:

- |   |                          |                          |
|---|--------------------------|--------------------------|
| a. Make a large withdrawal of cash?               | Yes                      | No                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Transfer money from your account into another? | Yes                      | No                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Add someone's name to your account?            | Yes                      | No                       |
|   | <input type="checkbox"/> | <input type="checkbox"/> |

**Please read and sign below:**

*I have read and understand this statement. I still wish to process the financial transaction that involves: (Check all that apply):*

- Lump sum withdrawal of \$\_\_\_\_\_
- Transfer of assets
- Addition of name to account

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Account #: \_\_\_\_\_  
 Check # (if applicable) \_\_\_\_\_  
 I.D.: \_\_\_\_\_

*For Office Use Only:*

*Teller Stamp:* \_\_\_\_\_

*Initials:* \_\_\_\_\_

*Branch:* \_\_\_\_\_

## CONSENT TO RELEASE INFORMATION

(Financial institutions may wish to have in-house legal departments review this form)

The information released under this form shall be provided to county Department of Social Services or law enforcement agency personnel to investigate known or suspected financial exploitation of my accounts pursuant to Colorado Revised Statute 26-3.1-206 or Colorado Revised Statute 18-6.5-101, Article 6.5. The information obtained may also be furnished to the District Attorney. The information obtained under this consent may only be used by those agencies in accordance with their official capacities and functions.

With this understanding, I, \_\_\_\_\_,  
(Account Holder Name)

\_\_\_\_\_, currently living at \_\_\_\_\_  
Social Security # \_\_\_\_\_ Address \_\_\_\_\_

Hereby give my permission to the release and exchange of information and records between  
\_\_\_\_\_ and  
Law Enforcement or Social Services Investigators

\_\_\_\_\_  
Name of Financial Institution

- Please release any records requested.
- Please release only the following financial information.:

\_\_\_\_\_  
\_\_\_\_\_

- This consent shall remain in effect until I revoke it.
- This consent shall remain in effect for one year from date signed.

Account Holder \_\_\_\_\_

Date \_\_\_\_\_

Notary Public \_\_\_\_\_

Date \_\_\_\_\_

# QUICK GUIDE RESPONSE CHART

## FRONT LINE STAFF:

*If you are suspicious*

- ∪ Inquire about the withdrawal
- ∪ Ask if someone claiming to have a lot of money has asked elder to do this transaction "in good faith"
- ∪ Have elder fill out the *Fraud Alert* form
- ∪ Check documentation of 3<sup>rd</sup> party
- ∪ Activate surveillance camera
- ∪ Get 3<sup>rd</sup> party's fingerprint
- ∪ Contact Security
- ∪ Follow-up with internal Auditor

*If you suspect coercion in the presence of a 3<sup>rd</sup> party*

- ∪ Try separating elder from 3<sup>rd</sup> party by ushering him/her to another location on the pretense of discussing *private* account information
- ∪ Notify another colleague of the situation
- ∪ Ask elder to fill out the *Fraud Alert Form*
- ∪ Contact Security, or have colleague do so

*If you fear elder is in immediate danger*

- ∪ Contact Law Enforcement
- ∪ Contact Security

*If in doubt, or are confused*

- ∪ Contact AARP Elderwatch
- ∪ Contact District Attorney if it's a concern about fraud
- ∪ Contact Adult Protective Services if it's a concern about abuse or neglect

**ALWAYS PRACTICE PREVENTION!**

- ∪ Inquire as to reason for large withdrawal
- ∪ Note any unusual client banking patterns
- ∪ Make available *Fraud Alert* Forms

## IN-HOUSE SECURITY:

*If you suspect fraud*

- ∪ Contact Law Enforcement

*If you suspect abuse or neglect*

- ∪ Contact Adult Protective Services

**AARP Elder Watch: 800-222-4444 or 303-222-4444**  
**Law Enforcement** \_\_\_\_\_  
**Adult Protective Services** \_\_\_\_\_