

Oklahoma Securities Commission and Invest Ed® Present



ACFE Presentation
May 14, 2015

Poll Questions

1. Have you dealt with elder financial exploitation at work?
2. Do you deal with older clients in your practice?
3. Have you ever dealt with elder financial exploitation?
4. Have you ever had to report elder financial exploitation?



Elder Investment Fraud and Financial Exploitation (EIFFE) Prevention Program

- The EIFFE Prevention Program utilizes CME, CLE, CPE courses to educate medical, accounting, investigative and legal professionals who routinely see older Americans as part of their practice about elder investment fraud, vulnerability to investment fraud due to MCI, recognizing EIFFE in their clients, referral routes for further screening and the reporting of suspected fraud



EIFFE Prevention Program

- A collaboration between:
 - Investor Protection Trust
 - Investor Protection Institute
 - ABA and AMA
 - National Adult Protective Services Association
 - Oklahoma Securities Commission
 - We intent to add ACFE



Purpose of this Presentation

- **Awareness** of the financial fraud epidemic involving financial abuse of seniors
- **Awareness** of the role of and resources provided by The Oklahoma Securities Commission
- Provide information on resources available for those susceptible of becoming victims of Financial Exploitation
- Who ya gonna to call?



Learning Objectives

Attendees should be able to...

- List key factors that increase an older person's vulnerability to elder investment fraud and financial exploitation
- Describe common financial exploitation schemes and practices
- Describe when to and where to refer high risk seniors



Demographics

- 50% chance that if you get to 60 you'll live to 85+
- More people over 65 today than the entire US population up to 1880
- Normal Older adults show substantial decline in Cognitive function over time (math & finances)



Demographics

- Financial decision making peaks in 50s and declines thereafter
- US wealth is held disproportionately by the elderly the most vulnerable to fraud
- 10,000 persons will turn 65 every day for the next 17 years!



Prevalence of Cognitive Problems

- 35% (8.8 million) of Americans over the age of 71 have either
 - MCI
 - dementia
 - changes in executive cognitive functions*

* Plassman, BL et al. *Annals of Internal Medicine*, Vol. 148, No. 6, pp. 427-434, March 18, 2008



EIFFE Can Happen to Anyone...



“To those seniors and especially elderly veterans like myself, I want to tell you this: You are not alone and you have nothing to be ashamed of. If elder abuse happened to me, it can happen to anyone.”

Mickey Rooney

Testimony to Senate Special Committee on Aging, March 2, 2011



'Emotional Blackmail'



Investment fraud affects everyone

In the United States, **BILLIONS** of dollars are lost each year to investment fraud and scams.

These scams affect both the rich and poor; the sophisticated and the unsophisticated; the timid, the greedy, and the elderly are particularly **vulnerable**



Difficulty of raising awareness and investigation



Raising Awareness

- Why addressing the elder financial fraud abuse issue of is so important...
 - vulnerable population is large and growing
 - financial health affects overall health and wellbeing
- Almost a third of elders live within 150% of the poverty level
- Average savings of 50 year old boomers is about \$50,000
- A significant number of the Oklahoma Securities Commission cases involve elderly victims
- Even older adults with savings in the low millions can't afford to lose substantial amounts, as they don't have the time to make it up



Important Areas for EIFFE

- Vulnerability [risk] factors
- Financial capacity issues
- Investment and financial knowledge
- Undue influence of others



Vulnerability Red Flags

- Social isolation
- Bereavement
- Dependence on another to provide care
- Change in appearance, poor hygiene
- Alcohol or drug abuse
- Depression or mental illness
- Suspicious/delusional
- Cognitive problems
- Change in ability to perform activities of daily living



Financial Capacity

- “The ability to make and execute decisions consistent with personal preferences and values regarding finances”



Investment Fraud and Financial Exploitation

- “The illegal or improper use of another individual’s resources for personal profit or gain”

Adult Protective Services:

http://www.ncea.aoa.gov/NCEAroot/Main_Site/FAQ/Basics/Types_Of_Abuse.aspx



Undue Influence

- “When exploiters, whether family, acquaintances, or strangers, use their power to deceptively gain control over the decision making of a victim. Often involves financial exploitation.”



Exploitation of an Elderly person

Okla. Stat. tit. 21 §843.4

- Knowingly, by deception or intimidation, obtaining or using, or endeavoring to obtain or use, an elderly person's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person, by a person who:
 - stands in a position of trust and confidence with the elderly person or disabled adult, or
 - has a business relationship with the elderly person or disabled adult, or
- Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person, by a person who knows or reasonably should know that the elderly person lacks the capacity to consent.



Financial Neglect

Okla. Stat. tit. 43A §10-103

- means repeated instances by a caretaker, or other person, who has assumed the role of financial management, of failure to use the resources available to restore or maintain the health and physical well-being of a vulnerable adult[.]



Neglect

Okla. Stat. tit. 43A §10-103

- the failure to provide protection for a vulnerable adult who is unable to protect his or her own interest,
- the failure to provide a vulnerable adult with adequate shelter, nutrition, health care, or clothing, or
- negligent acts or omissions that result in harm or the unreasonable risk of harm to a vulnerable adult through the action, inaction, or lack of supervision by a caretaker providing direct services



Vulnerable Adult

Okla. Stat. tit. 43A §10-103

an individual who is an incapacitated person or who, because of physical or mental disability, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively, or to meet essential requirements for mental or physical health or safety, or to protect himself or herself from abuse, verbal abuse, neglect, or exploitation without assistance from others.



Common EIFFE Schemes by Responsible Party (1)

- Caregivers or family members
 - use older adult's personal materials for own gain, such as: retirement funds, social security checks, etc.



Common EIFFE Schemes by Responsible Party (2)

- Trusted financial advisors
 - sells inappropriate annuities or front-end loaded mutual funds, then churns them to generate inordinately high fees that can result in loss of assets
- Strangers
 - scams by phone, email, or mail



Common Advisor Scams and Schemes

- Unsuitable investments and “know your customer”
- Unauthorized transactions (power of attorney abuse)
- Margin trading
- Churning
- Unreasonable expectations
- Complex investments
- High fees and expenses



Common Types of Fraud

- Investment Fraud
 - Affinity fraud
 - Theft in brokerage accounts
 - Internet and email investment scams
 - Ponzi and pyramid schemes
 - Oil & gas schemes
 - Coins & precious metals
- Caregivers/Family/Friends
 - Power of Attorney
 - Change of last will and testament
 - Property conversion



Case Scenario

- Ms. Smith is a recent widow with a special needs daughter. She hired an attorney, Mr. Elias, to help with estate planning. Ms. Smith employed Mr. Elias for several years and considered him to be a family member. Mr. Elias billed Ms. Smith for legal services but also accepted personal financial gifts from Ms. Smith.
- Mr. Elias accepted \$48,000 in gifts for and his family members and \$580,000 to a trust that paid for his new home.
- Ms. Smith sued and Mr. Elias reached out to all employees of Ms. Smith telling them that she was heading down the path that would lead to her being declared incompetent and subject to guardianship.
- What steps could be taken to prevent the exploitation of Ms. Smith?



Brooke Astor Case

- Astor had Alzheimer's Disease among other ailments
- Her Grandson filed a lawsuit against his father and her son, alleging financial abuse by allowing her to live in squalor while enriching himself with income and assets from her estate
- Also charged was her son's lawyer for mishandling money and forgery
- Both son and his lawyer were convicted in criminal proceeding



How To Spot a Con Artist

- Promise no risk with high rewards/returns
- High pressure sales techniques
- Spelling and grammatical errors
- Offer is for you only or a “select group”
- Pressure for an immediate response
- Requires an advance payment
- “Cash only” or checks made out personally
- Promises to provide paperwork “later”
- Often ask for personal information
- Ask you to sign blank forms or documents
- Inability to contact an independent company representative
- Offers that are too good to be true



Elder Fraud Reporting Requirements

Okla. Stat. tit. 43A §10-104

Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation shall make a report as soon as the person is aware of the situation to: 1. The Department of Human Services; or 2. The municipal police department or sheriff's office in the county in which the suspected abuse, neglect, or exploitation occurred.



Who Commits this Elder Abuse?

- Traits
 - caregiver
 - male, usually relative
 - living with the patient
 - economically dependent on the target
 - history of mental illness, including substance abuse and antisocial behavior or other health problems

Tueth, M (*Am J Geriatr Psychiatry* 8:2, Spring 2000)



Persons in Positions to Violate the OUSA and Commit Elder Abuse

- Any securities professional:
 - Broker/dealer
 - B/D Agent
 - Investment Adviser
- Issuer of securities
- Unregistered person who gives investment advice or offers or sells any security, financial planners and insurance salespersons
- Con-man
- New Friend
- Cold Caller
- Financial Expert (Advisor Credentials)
- Counselor
- Family Member
- Community or Church Member (Affinity Fraud)
- Trusted Professional



- Home
- The Commission
 - Activities & Objectives
 - Meeting Agenda
 - Commission Reports
 - Commissioner's Login
 - Employee Access
- Enforcement Division
 - Complaint procedures
 - Press Releases
 - Actions
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 - Check Filing Status
 - IC Notice Permit Letters
- Firms /Professionals
 - Broker-dealer
 - Investment Adviser
 - Database Search
 - FINRA BrokerCheck
 - Exam & Testing Info
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 - Acts and Rules



- ...in the News 
- Better Business Bureau: Internet Business "Jango" may be Pyramid Scheme** - CBS7KOSA.com - 8/20/2009
 - Keep Your Wallet Far From Spazio's Westport** - RiverfrontTimes.com - 8/20/2009
 - Merriman charged in multimillion-dollar alleged Ponzi scheme** - Denver Business Journal - 8/20/2009
 - Orange County man gets 27-year sentence in investor fraud** - Los Angeles Times - 8/20/2009
 - Court documents: Spell stole \$16 million, not \$60 million** - Gainesville Times - 8/20/2009
 - AIG Customers Sue Insurer for Not Covering Madoff Fraud Losses** - Bloomberg.com - 8/20/2009
 - Beware Bernie Madoff Books** - Online.WSJ.com - 8/20/2009
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- Recent Enforcement Actions**
- Global West Funding Ltd. Co. and McKye, Brian and Heritage Estate Service LLC and Johnson, Joe Don and Global West Financial LLC and Sure Lock Financial LLC and Sure Lock Loans LLC and Wave Goldmade Ltd. (The) and Farnham, James and Storybook Investments WA, LLC**
 -  ODS' Motion to Dismiss Contempt Action against Brian McKye
Filed: 8/14/2009
 -  Default Judgment against Defendants Global West Funding, Ltd., Co., Global West Financial LLC, Sure Lock Financial, LLC, Sure Lock Loans LLC and the Wave-Goldmade Ltd. Filed: 8/14/2009
 -  Order Dismissing Contempt Action against Brian McKye
Filed: 8/14/2009
 - Dominion Investor Services, Inc. and Stanley, James**
 -  Notice of Service on the Administrator and Affidavit of Compliance

Global West Funding

Oklahoma City/// The Oklahoma Department of Securities filed a civil action in Oklahoma County District Court alleging that Oklahoma City residents, Brian McKye, Joe Don Johnson, and James Farnham, are fraudulently selling securities...

 [Press Release 3/24/2009](#)

-  [Order Modifying, in Part, Temporary Restraining Order, Order Freezing Assets and Order for Accounting and Appointing Special Master regarding Heritage Estate Service, LLC and Joe Don Johnson 4/23/2009](#)
-  [First Amendment to Petition for Permanent Injunction and other Equitable Relief 4/10/2009](#)
-  [Agreed Order Appointing Special Master \[Stephen J. Moriarty\] 4/1/2009](#)
-  [Petition for Permanent Injunction and other Equitable Relief 3/24/2009](#)
-  [Temporary Restraining Order, Order Freezing Assets and Order for Accounting 3/24/2009](#)

 [See all Orders & Actions](#)

 [Related News Articles](#)

Quest Resource Corp./Jerry Cash

Oklahoma City/// The Administrator of the Oklahoma Department of Securities filed a civil action in Oklahoma County District Court against Jerry D. Cash, Chief Executive Officer and a director of Quest Resource Corporation...

 [Press Release \[Jerry Cash\] 8/29/2008](#)

-  [Petition for Permanent Injunction, Stipulation and Consent, and Order Freezing Assets \[Jerry Cash\] 8/29/2008](#)
-  [Press Release \[David Grose\] 2/27/2009](#)
-  [Petition for Permanent Injunction and other Equitable Relief \[David Grose\] 2/27/2009](#)

 [See all Orders & Actions](#)

 [Related News Articles](#)

Raglin Industries/Divine Develop.

Oklahoma City/// Irving L. Faught, Administrator of the Oklahoma Securities Commission, has launched an investigation into the practices of a business based in Wagoner, Oklahoma...

 [Press Release 11/20/2006](#)

 [See all Orders & Actions](#)



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Suitable Investments

Links to Outside Resources



Investigate Before

INVESTING

Rex Linn (click to Investigate Before Investing)

Events

Ponzi Scheme Hits Oklahoma, Investigations Continue
Source: [News9.com](#)

STARS Saturday Workshops
(click for additional dates)

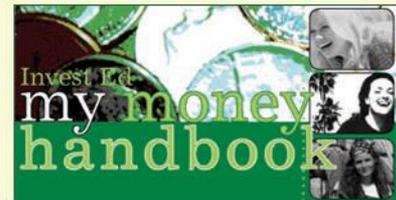
Saturday, September 12, 2009
Oklahoma City, OK
Central Region

Saturday, September 19, 2009
Woodward, OK
NW Region

Saturday, September 26, 2009
Tulsa, OK
NE Region

"Investors may feel overwhelmed by the seemingly constant stream of scams in the news. This is why we created solid, unbiased investor education programs, to reach a broad range of Oklahomans about the importance of understanding, investing and avoiding fraud."

-Irving Faught,
Administrator of the Oklahoma Securities Commission


Oklahoma Securities Commission
Common Types of Investment Scams
How to Protect Yourself
What to do if you Suspect Fraudulent Activity



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State Law Remedies for Victims of Securities Fraud

“It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly:

1. To employ a device, scheme, or artifice to defraud;
2. To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading; or
3. To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.”



How You Can Help...

- Often in cases of financial elder abuse, the seniors are unable to protect themselves
- Caregivers/family members are sometimes the perpetrators and the victim doesn't want the caregiver to get into trouble – the alternative for the victim is often a nursing home
- YOU – as a person having direct relationship– may be the only person who will speak up and are uniquely positioned to discover potential exploitation
- If you do discover information of suspected investment financial abuse contact the Department of Securities at www.securities.ok.gov or call 405-280-7775



Complaint Form – What you should attach

- Facts generate outcomes! The form requires details and the more the better, for example
 - Business card or other information that would list the name and company of the individual who may have sold investments to the client
 - Any monthly investment/account statements
 - Documentation we have mentioned (prospectus, brochures/pamphlets, etc.)
 - Website address
 - **Note:** Unless you have permission, do not remove items from the senior's home - preferably make copies



ODS Actions

- **Administrative**

- The procedure for administrative actions is found not only in the Oklahoma Administrative Procedures Act but also at 71 O.S. § 1-604

- **Civil**

- The procedure for actions taken in district court is found in 71 O.S. 1-603

- **Criminal**

- Referral to public prosecutors



YOUR turn

Questions about the Oklahoma Securities Commission or investment fraud?

Respond at **PollEv.com/investedok**

Text **INVESTEDOK** to **22333** once to join, then text your message



Texting

New Message

To: 22333

<Your response>

Send

On the web

PollEv.com/investedok

<Your response>

Submit Response

