

Next Steps: Protecting Your Elderly Parents' Money

By Jan Warner and Jan Collins



Question: My parents were always secretive about their finances. Since my mother's death three years ago, Dad has allowed a financial advisor he met at a seminar for the elderly to handle his finances. They talk more times each week than he and I ever talk, and they seem to have a close personal relationship. I have never met this man, and Dad has never offered to introduce us.

As an only child, Dad's care fell to me when he began failing. Finally, because he did not want to go into an assisted living facility, he agreed to move in with my wife and me early last year. Because he didn't have a power of attorney for either health care or finances, and because his will was very old, my wife and I convinced him to see a lawyer to prepare these documents, just in case.

Dad refused to give the lawyer any information about his finances. When the lawyer asked permission to speak with his financial advisor, Dad refused and walked out of the office. Dad told my wife later that his advisor had instructed him not to tell the lawyer, or for that matter, anyone, about what he owned because they would try to take it away from him. He is becoming more and more paranoid and secretive. We have never seen a statement from the financial advisor come to the house in the mail, and Dad has no other mailing address. His checking account always has a minimum balance each month, and my wife and I are basically supporting him. The lawyer called and told us that he was concerned and found that Dad had signed a power of attorney for the advisor that is recorded. Is there anything we can do?

Answer: The situation you describe is a recipe for disaster – that is, if disaster hasn't already clobbered your father's investment portfolio. Red flags have been waving in the wind: 1) almost-daily contact with a client by a financial advisor is most unusual and may connote undue influence, especially where the advisor puts on the second hat of a fiduciary under a power of attorney; 2) no statements being sent to your father is unheard of; and 3) telling your father not to discuss finances with you, his lawyer, or anyone else is outrageous since financial issues are closely tied to long-term care planning.

While all individuals are entitled to privacy in their financial dealings, and while we understand your father's desire to keep these matters private, when elderly persons reach the point that they must depend on family members for their care, it is time for them to be open and to share information just in case the unthinkable – i.e., incapacity – occurs. Financial advisors and others in whom elderly persons place their trust should foster and encourage – not denigrate and discourage – family relationships under these circumstances.

Taking the NextStep: Since your father doesn't appear to be sufficiently incapacitated for you to be appointed as his conservator or guardian, we suggest the following: 1) Check out the financial advisor. With whom is he affiliated? Is he a registered investment advisor? Does he hold insurance and/or securities licenses? Has he had complaints lodged against

him? Does he have a criminal record? Much of this information is readily available as public information, through the Securities and Exchange Commission (SEC), your state securities agency, and your state insurance commission. 2) Go to the probate or surrogate court where your mother's estate was probated and get copies of the estate inventories; these will show you what your mother owned when she died, her life insurance, etc. These records should give you some idea about what your father started with three years ago. 3) Have a heart-to-heart talk with your father, telling him about your concerns. Tell him that while you and your wife are certainly willing to continue to help, you expect him to trust you. 4) Consider reporting your concerns to your local adult protective services agency as it appears to us that there is a good probability that your father, a vulnerable adult, may well have been taken advantage of by an unscrupulous predator.