

Elder Law for the Non Elder Law Attorney: Part II

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Fraud and Abuse Resources

- Federal Trade Commission: <http://www.ftc.gov/bcp/index.shtml>
 - Consumer Financial Protection Bureau: <http://www.consumerfinance.gov/>
 - American Bar Ass'n, Comm'n on Law and Aging:
http://www.americanbar.org/groups/law_aging/publications.html
 - AARP Scams and Fraud Page: <http://www.aarp.org/money/scams-fraud/>
 - Elder Financial Protection Network: <http://www.bewiseonline.org/>
 - National Association of Area Agencies on Aging: <http://www.n4a.org/>
 - National Center on Elder Abuse: www.ncea.aoa.gov
 - National Council on Aging: www.ncoa.org
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Ethics Hypothetical

Bob, a 75 year old man living in New York City, was recently referred to you by an attorney for whom you have great respect. When Bob meets you, he appears slightly disheveled and disorganized; he is carrying several bags filled with court papers, bank statements, etc. You remember seeing Bob several years ago when he and his brother, Stan, came to you about estate and Medicaid planning for their mother, Agnus. Agnus has since died, survived by her sister Sophie, and her two sons, Bob and Stan.

Bob tells you he is concerned that prior to Agnus's death, Stan, Agnus's financial advisor, and a real estate attorney "conspired together" to steal money from Agnus and transfer the title to her house to Stan. (Bob alleges that Agnus's will bequeathed her house to Bob and Stan in equal shares.) Bob describes Stan as a "crack addict" and "petty criminal", and states that the financial advisor and real estate attorney are friends. Lastly, Bob says that he alone took care of his mom's personal needs and was unaware of the alleged malfeasance that was occurring until after Agnus died.

Bob says he recently moved into Aunt Sophie's home to take care of her, as she is 90 years old and suffering from dementia. He hands you a Power of Attorney and Health Care Proxy, both of which were executed in 2010 and name him as Sophie's primary sole agent. Bob says Sophie is aware of what happened to her sister, and now wants to hire you to transfer her house to Bob (since Stan received Agnus's house), and to prepare a Medicaid community application on her behalf. From Bob's description of Sophie, you doubt that she is capable of acting on her own behalf.