



## Estate and Trust Disputes

### 1. Fraud Defined

*Both Black's Law Dictionary & the ACFE (Association of Certified Fraud Examiners) define fraud as a knowing misrepresentation of the truth or an intentional or deliberate act. It induces another person to act to his or her detriment, or acts to deprive another of property or money via deception.*

### 2. Who Perpetrates Fraud?

*Stereotypes about "fraudsters" or "criminals" often places blinders on well-meaning people. After all, none of us would give access to our money, our medical care, or our property to "a bad guy." Fraudsters know this. They use their ability to be **liked and trusted** to perpetrate their crimes.*

### 3. Red Flags of Caretaker Behavior

- *Vulnerable person is never outside of their "earshot" or "custody"*
- *Refuses to relinquish control or train others*
- *Often complains of doing "all the work" but will not accept help*
- *Unexplained lifestyle changes (cars, homes, spending, vacations, etc.)*
- *Refuses to give other family members or professionals basic financial information*
- *"Offended" when asked questions*

### 4. Red Flags of Vulnerable Person

- *Sequestered from friends and family*
- *Stops attending normal functions (church, card games, hair appointments, etc.)*
- *Decline in personal hygiene*
- *Spending habits change (e.g., suddenly paying for expensive phone plans, cable, credit cards, etc.; starts paying large amounts to caretaker or others).*

### 5. Common Financial Claims/Complaints from Beneficiaries

- *Missing Funds*
- *Misspent Funds*
- *Lack of Accountings*
- *Inequitable Benefits*
- *Hidden Assets*

# ESTATE AND TRUST OUTLINE

## 6. Humanity in Business

*When people are confused about money or a personal situation, they need professionals who hear them out, work to validate their concerns (or find evidence to the contrary), and explain concepts in a way they can understand. When we listen to our clients, we actually help them out of their "emotional" mind and back into their "rational" mind... this returns power to them and engenders trust with us. It's okay.... actually vital....to express empathy in these situations.*

## 7. Build A Baseline

*Understand what was happening 1 to 3 years prior to the "incident" or change in habits. This helps us understand how that person was living their life. This is especially helpful if the vulnerable adult has cognitive issues or has passed away.*

## 8. Critical Documents

- *Tax Returns – Primarily to assist in identifying streams of income and potential assets*
- *Bank Statements and cancelled check images – Verify all income is deposited. Verify all expenditures are for the benefit of the vulnerable person.*
- *Credit Card Statements – is the spending for the benefit of the vulnerable person? Is caretaker providing receipts for all spending (especially at "big box stores" like Fred Meyer, Target, Walmart, Amazon, etc.)*
- *Investment Accounts, including payment records – Verify that all transfers of funds from these accounts land in the known bank accounts of the vulnerable person*

## 9. Role of Professional

- *Plan Well in advance*
  - *Video Record Assets*
  - *Document wishes*
  - *Plan proper internal controls (e.g., person paying bills is not the same person who reviews monthly account statements)*
- *Understand the red flags of abuse and **report any instances***
- *Listen to clients' concerns.*
- *Assist them with:*
  - *Obtaining documents*
  - *Finding professionals who can assist*