



Department of Justice

**STATEMENT OF
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UNITED STATES DEPARTMENT OF JUSTICE**

**BEFORE THE
SPECIAL COMMITTEE ON AGING
UNITED STATES SENATE**

**FOR A HEARING ON
SCAMS TARGETING SENIOR CITIZENS**

**PRESENTED ON
FEBRUARY 10, 2016**

Introduction

Chairman Collins, Ranking Member McCaskill, and distinguished members of the Committee, thank you for the opportunity to discuss the Department of Justice's efforts aimed at combatting fraud against our nation's seniors. This Committee has a storied history of researching, informing, and, most importantly, leading on issues relevant to our nation's aging population and those that love and care for them. On behalf of the Department, thank you for your continued efforts.

At the beginning of 2011, the first Baby Boomers reached the age of 65. Thousands more reach that milestone each day. They have many reasons to celebrate; senior citizens are some of the most likely members of society to have nest eggs, own homes, and have excellent credit. Unfortunately, these are also some of the same qualities that make seniors attractive targets for scammers and con artists. Research has shown that seniors who have been financially exploited experience a loss of independence, decreased health, and psychological distress, all of which culminate in a diminished quality of life.

As this Committee knows all too well, there are many schemes and scams used to exploit the elderly for financial gain. With clever perpetrators and the advent of new technologies, many of these efforts continue to evolve and challenge law enforcement. This said, across the Department, we are engaged on this issue, and are working diligently to seek justice on behalf of some of society's most vulnerable victims. I would like to take a few moments to describe some of the great work the men and women of the Department are doing in this area.

Department-Wide Efforts

To underscore our commitment to the successful pursuit of elder justice and financial exploitation cases, we convened an internal working group last year to talk about lessons learned from our elder justice work to date, and determine what more we can do to get ahead of emerging schemes and their perpetrators.

Another purpose of this working group has been to establish points of contact within each of the Department's components on issues relating to the elderly. In its capacity as the Department's clearinghouse for information on matters affecting the elderly, the working group produced a component inventory of the efforts by the Department to combat financial abuse against the elderly. This inventory now

serves both as a reference that demonstrates the Department's efforts and accomplishments, and as a guide for improving these efforts in the future.

As an example of how broadly the Department is approaching the problem of elder financial exploitation, the working group includes representatives from across the Department, including:

- the Department's senior leadership offices;
- the Elder Justice Initiative, Fraud Section, and Consumer Protection Branch (which has both civil and criminal jurisdiction), within the Civil Division;
- the Asset Forfeiture and Money Laundering, Computer Crime and Intellectual Property, Fraud, Human Rights and Special Prosecutions Sections, within the Criminal Division;
- the Executive Office for United States Attorneys;
- the Office of Justice Programs, including the Office for Victims of Crime;
- the Office on Violence Against Women; and
- the Office for Access to Justice.

Further, we have a long history of engaging with our interagency colleagues at the Federal Trade Commission (FTC); Federal Bureau of Investigation (FBI); U.S. Immigration and Customs Enforcement's Homeland Security Investigations (ICE-HSI); Treasury Inspector General for Tax Administration (TIGTA) and Financial Crimes Enforcement Network (FinCEN); U.S. Postal Inspection Service (USPIS); U.S. Securities and Exchange Commission (SEC), and the Administration on Aging, within the Department of Health and Human Services, to investigate and prosecute mass marketing schemes, as well as engage on a range of other elder justice legal and policy issues. The Department participates in the Elder Justice Coordinating Council (EJCC) and has been actively working with other federal agency participants on efforts concerning financial exploitation of the elderly, which the EJCC has identified as a priority area. Where appropriate, we also enlist the assistance of our state and local law enforcement colleagues to address these issues.

International Coordination

Many frauds targeting the elderly in the United States originate overseas. Combating such schemes often requires close collaboration with our international partners. To this end, we are committed to expanding our engagement with law enforcement agencies in the countries in which many of these frauds originate.

As a key component of these efforts, the Department co-chairs the International Mass-Marketing Fraud Working Group. This group includes other U.S. investigative and regulatory agencies, such as the FBI, FTC, USPIS, the Secret Service, and ICE-HSI, as well as law enforcement and regulatory agency representatives from Australia, Belgium, Canada, the Netherlands, Nigeria, Norway, Spain, and the United Kingdom.

The members of the group meet to confer on cooperative measures to improve the sharing of criminal intelligence, disrupt mass-marketing schemes, enhance public education and prevention measures, and increase the effectiveness of criminal and civil enforcement actions directed against mass-marketing fraud.

Project Jamaican Operations Linked to Telemarketing, or Project JOLT, reflects these successful partnerships. United States and Jamaican law enforcement have worked together to combat fraudulent lottery schemes from Jamaica preying on elderly citizens in this country. In 2015, the Department, working with ICE-HSI and USPIS in Miami, and with the government of Jamaica, successfully extradited the first Jamaican citizen to be prosecuted in this country for conspiracy to commit wire fraud in connection with a lottery scheme. He was ultimately convicted in U.S. federal court, and was sentenced to 46 months in prison. Moreover, since 2009, Department attorneys have prosecuted or are prosecuting nearly 100 individual defendants linked to Jamaican related lottery schemes. The approximately 40 defendants who have been convicted and sentenced have been sentenced, collectively, to more than 145 years in prison.

The United States also maintains treaties with the Nigerian government to facilitate collaboration on these matters and is working towards a cooperative relationship. For example, representatives from the Nigerian Economic and Financial Crimes Commission (EFCC) who participate in the International Mass-Marketing Fraud Working Group have coordinated with prosecutors in the U.S. Attorney's Office for the Southern District of Mississippi to accomplish extraditions last year, and the EFCC has worked closely with the FBI in the past on other investigations as well.

Mail-Based Fraud Schemes

In addition to schemes perpetrated over the phone and computer, we've seen schemes using the mails, sometimes employing international printing and shipping resources to facilitate the scams. In 2014, the Consumer Protection Branch, within the Department's Civil Division, brought a case alleging that over 1 million consumers had been defrauded by an international mass-mailing enterprise involving purported psychics.

U.S. Attorneys' Offices across the country also have worked to stop this trend through criminal prosecutions. In May 2015, prosecutors in south Florida brought charges alleging that four individuals had committed a widespread sweepstakes mail fraud scheme. In September 2015, prosecutors in Long Island also brought their own charges against an alleged mail sweepstakes fraud. These represent but two examples of prosecutions of these types of schemes.

We are committed to investigating and prosecuting both foreign and domestic perpetrators of these schemes until the message gets out to potential criminals that, regardless of the means used – advanced technology or the mail – we will not permit our senior victims to be defrauded out of their hard-earned dollars.

Telephone-Based Fraud Schemes

In addition to the Jamaican lottery fraud mentioned earlier, another common telemarketing scheme involves the purported resale of timeshare interests. The fraudsters, who target elderly victims who own timeshare interests, falsely claim to have buyers for victims' timeshare interests and express the need to move quickly on the deals. They solicit fees from the victims of up to several thousand dollars, claiming they are for pre-paid closing costs and related expenses, and such fees will be refunded at the time of closing. The sales never occur and the fraudsters pocket the money for their own personal gain.

For example, in July 2014, the U.S. Attorney's Office for the Southern District of Illinois, working with investigators from the FTC and the U.S. Postal Inspection Service, charged Peter Massimino with conspiracy to commit mail fraud and wire fraud in connection with a scheme to defraud elderly individuals who owned time shares. That office used the Scams Act – which requires courts to sentence defendants to an additional five years' imprisonment for telemarketing-related crimes against victims over the age of 55.

Specifically, Massimino solicited fees (purported to be pre-paid closing costs and related expenses, some of which would be returned at closing) from the victims of up to several thousand dollars, and claimed that he would use marketing firms to advertise the timeshares. The sales did not take place, closings were not scheduled as claimed, and Massimino did not sell any of the victims' timeshare interests as promised.

While this case involved one defendant and 68 victims, the matter was part of a multiple-victim timeshare resale scam operating from Florida that led to the victimization of 25,500 people and total losses of \$35 million. Massimino was ultimately sentenced in July 2014 to 87 months' imprisonment.

More recently, on February 2, 2016, the U.S. Attorney's Office for the Northern District of Illinois, worked closely with investigators from the FTC and USPIS to successfully conclude its prosecution of Gilbert Freeman for a timeshare scheme in which the majority of victims were elderly. Freeman defrauded more than 1,400 owners out of \$4.8 million by falsely promising that he would sell their Mexican timeshares to corporate buyers. Freeman and others collected payments from the owners for fictitious fees and taxes that he claimed were required to complete Mexican real estate deals, and that he promised would be refunded upon closing. In reality, Freeman had no intention of selling the timeshares or reimbursing the owners. Freeman was sentenced last week to 20 years in prison for his role in this scheme.

Embezzlement

The elderly are also abused by professionals who manage their money. For example, in February 2015, in the District of Maryland, Travis Wetzel, a branch operations manager for an investment advisory firm, was sentenced to 42 months in prison for embezzling over \$1 million from an elderly client's annuity account. Over a two-year period, an FBI investigation revealed that Wetzel took money from his client's account without the client's knowledge, and used the money for his own personal benefit. He also laundered a portion of the money by transferring it to other bank accounts he controlled. Wetzel knew his client was elderly, and was able to repeatedly embezzle the funds due to his client's age and physical condition. In particular, the victim was isolated and potentially suffering from cognitive impairments. In addition to incarceration, the court also ordered Wetzel to forfeit and pay restitution of \$1,282,224.

Ponzi Schemes

Investment fraud schemes also continue to be a problem. For example, in January 2015, in the Middle District of Florida, Donald Ray Babb and Ralph Victor Ruth were sentenced to 121 months' imprisonment for their role in a scheme to defraud elderly investors from 2006 to 2013 out of \$18 million.

Specifically, an FBI investigation revealed that Babb and Ruth falsely represented that their businesses were licensed financial institutions whose deposits were insured by the FDIC. They advertised risk-free certificates of deposit (CD) investment opportunities which yielded high rates of return. However, neither Babb nor Ruth ever purchased a CD for an investor. Instead, they used the money to make payments to earlier investors in the scheme, and to purchase real estate and other luxury items for themselves. As a part of their sentences, the court also ordered the forfeiture of their interests in various pieces of real property, which were traceable to proceeds of the offense, and restitution in the amount of \$9.7 million.

Two other examples of successful prosecutions of Ponzi schemes are described in the section above on "Telephone-Based Fraud Schemes."

Training and Outreach

Education and outreach remain important parts of the Department's efforts to combat frauds against seniors, and we have an ambitious training program for federal, state, and local prosecutors and law enforcement. Since 2013, the Department's Office on Violence Against Women has partnered with AEquitas and the National Clearinghouse on Abuse in Later Life to train state and local prosecutors from 26 states and the District of Columbia through its National Institute on Prosecuting Elder Abuse, an intensive four-day training program that covers the essential elements of bringing an elder abuse or financial exploitation case. The Department is committed to enrolling and training prosecutors from all 50 states, and will enroll prosecutors from the remaining 24 states by 2017.

Further, the Department provides significant training resources for its prosecutors, investigators, and victim-coordinators on effectively addressing elder abuse issues. In addition to toolkits that give prosecutors an overview of key elder abuse topics, the Department presents webinars designed to highlight best practices for prosecuting elder abuse cases. Just last month, the Department's Elder Justice

Initiative, which was established to coordinate the Department's enforcement, outreach, and policy efforts on behalf of the elderly, hosted a webinar on working with elderly victims and how victim-witness coordinators can play an important role in successfully addressing elder fraud. The Department also provides in-person training at both the National Advocacy Center in Columbia, South Carolina and at regional trainings across the country. Last June, the Elder Justice Initiative hosted training in Indianapolis for federal prosecutors and other federal agency personnel who work on cases involving elderly victims.

In addition, the Department's Office for Victims of Crime (OVC), in collaboration with the Department's Office for Access to Justice and the Elder Justice Initiative, developed a free, online elder abuse training for legal services providers. The elder abuse training consists of four modules, including:

- What Every Lawyer Needs to Know About Elder Abuse;
- Practical and Ethical Strategies;
- Domestic Violence and Sexual Assault in Later Life; and
- Financial Fraud and Exploitation.

In 2015, there were more than 3,400 completions of these four online trainings, including 711 completions of the Financial Fraud and Exploitation online training module.

Community outreach is also an important part of the Department's strategy to combat elder abuse. Educating seniors about how they can protect themselves helps prevent further victimization. Every year, the Department participates in the Rocky Mountain Fraud Summit in Denver. This summit is a collaborative effort amongst the U.S. Attorney's Office, AARP, the SEC, the Colorado Attorney General's Office, and other federal, state, and local regulators across the Rocky Mountain region. The summit, which is often held at an assisted living facility, consists of interactive presentations about investment frauds that target our communities, including our senior communities.

While prosecuting cases is one component of an effective strategy to combat elder fraud, preventing these crimes from happening at all is similarly a priority. To this end, the Department hosts community outreach events across the country. For example, in April 2015, during National Crime Victims' Rights Week, the U.S. Attorney's Office for the District of Minnesota partnered with assisted living facilities in St. Paul, St. Cloud, and Duluth to educate seniors on ways to protect themselves against investment fraud. The presentations informed seniors about identifying red flags, how to report suspicious conduct, and other tips for dealing

with investment fraud. We will continue to reach out to elders in all communities to help ensure that they are well informed.

Research to Advance Practice

The National Institute of Justice (NIJ), the Department's research and evaluation component, operates an active research portfolio related to elder mistreatment. The goals of the research are to improve knowledge and understanding of elder abuse, neglect, and exploitation through science. From 2005-2015, NIJ awarded more than 20 grants totaling over \$9 million that examine diverse elder mistreatment issues. While much of NIJ's elder mistreatment research focuses on violence and victimization, NIJ also has funded projects that explore the factors that contribute to or are associated with the financial abuse of the elderly as well as the factors that promote reporting and facilitate investigation of scams and abuse. This includes research projects in the following areas:

- Financial exploitation of the elderly in a consumer context;
- Developing and testing a culturally relevant research to practice model to understand financial maltreatment of Chinese American elders;
- Elder financial exploitation victimization: identifying unique risk factors to enhance detection, prevention, and intervention;
- Identifying risk and preventative factors for elder financial exploitation; and
- Integrating improved assessments of financial judgment: conceptual and measurement advances.

Other Efforts

The Department engages in additional efforts as well. The Elder Justice Initiative supports enhanced prosecution and coordination at federal, state, and local levels to fight abuse, neglect, and financial exploitation of the nation's senior and infirm population. Through this initiative, the government enforces the False Claims Act against nursing facilities and other long-term care providers that knowingly bill Medicaid or Medicare for care that was not provided or that was so deficient as to render it worthless. The initiative also offers grants to promote prevention, detection, intervention, investigation, and prosecution of elder abuse and neglect, and to improve scarce forensic knowledge in the field.

In September 2014 the Department's Elder Justice Initiative launched its elder justice website, <http://www.justice.gov/elderjustice>, which has been accessed more than half a million times since its launch. The website is a "one-stop shop" for prosecutors, researchers, practitioners, victims and families looking for resources to identify, report, and prosecute elder abuse and financial exploitation, including common fraud schemes perpetrated against seniors.

In addition, the Department's Elder Justice Initiative and OVC in FY 2015 provided \$1.5 million to the Corporation for National and Community Service – a U.S. federal agency that administers AmeriCorps and other national service programs – to launch Elder Justice AmeriCorps, which will support approximately 60 AmeriCorps lawyer and paralegal members to provide legal assistance and support services to victims of elder abuse, neglect, and exploitation, and promote pro bono capacity building in the field. OVC funds ten legal networks throughout the country to provide pro bono and holistic legal services to crime victims. The OVC-funded legal networks will have the opportunity to host attorneys and/or paralegals specializing in elder justice work through the Elder Justice AmeriCorps Program.

Through grant funding from OVC, in 2016 the National Center for State Courts (NCSC), in partnership with the American Bar Association Commission on Law and Aging and the Virginia Tech Center for Gerontology, will assess the scope of financial exploitation by conservators and will convene a national forum with the goal of improving victim services and enhancing public policies.

Numerous State Victims of Crime Act (VOCA) Victim Assistance Administrators also use monies from the OVC Crime Victims Fund VOCA Victim Assistance funding to support services for elder victims of crime, including legal assistance for aging crime victims and specialized services for aging domestic violence survivors. OVC has conducted workshops at the VOCA Victim Assistance Administrators annual conference to encourage State Administrators to use VOCA Victim Assistance funding to support services for elder victims of crime.

Health Care Fraud

Finally, the Health Care Fraud and Abuse Control Program and Medicare Fraud Strike Forces within the Department's Criminal Division have also successfully prosecuted fraudulent providers who endlessly billed Medicare for unwanted or medically unnecessary durable medical equipment such as therapeutic oxygen and

power wheelchairs, or other fraudsters who hijacked individual Medicare accounts through medical identity theft in order to facilitate fraudulent Medicare billing for services never provided.

Two recent cases demonstrate the Department's focus in this area. For example, in February 2014, a Houston, Texas defendant was sentenced to 87 months in federal prison for his role in a multi-state health care fraud scheme involving unnecessary motorized wheelchairs. The defendant was ordered to pay restitution in the amount of \$1.6 million to the Medicare and Medicaid programs and a fine of \$12,500. According to the indictment, from May 2002 to June 2003, the defendant conspired with others to defraud Medicare and Medicaid through the mass marketing of motorized wheelchairs. As part of the scheme, the defendant and his co-conspirators recruited Medicare and Medicaid beneficiaries and would secure the beneficiaries protected health information. The defendant and his co-conspirators created false medical necessity certificates, drafted prescriptions from doctors who had never examined those beneficiaries, and then billed Medicare for motorized wheelchairs. He then delivered less expensive scooters to the beneficiaries instead, and in other instances, did not deliver anything.

Similarly, in May 2014, the director of the outpatient facility at Hollywood Pavilion, LLC, which purportedly provided mental health services to Medicare beneficiaries, was sentenced to six years in prison and was ordered to pay \$39 million in joint and several restitution. According to court documents, the director and her co-conspirators arranged for illegal bribes and kickbacks to be paid to "patient brokers" in return for referring Medicare beneficiaries to Hollywood Pavilion. The director and her co-conspirators then caused the submission of fraudulent claims through Hollywood Pavilion and billed the Medicare program millions of dollars for services that were medically unnecessary and for services provided to patients who were not eligible for treatment. In an attempt to conceal the fraud, the director and her co-conspirators caused false, inaccurate, and misleading information to be included in patient files and related documents for Medicare beneficiaries who were purportedly receiving mental health treatment at Hollywood Pavilion. The director was convicted on charges of conspiracy to commit health care and wire fraud, wire fraud, and conspiracy to pay and receive kickbacks in connection with a federal health care benefit program.

Conclusion

The Department assures this Committee that we are working very hard to combat the growing problem of fraud targeting the nation's seniors. As I have outlined above, many hard working dedicated prosecutors, investigators, victim advocates, and others work tirelessly every day to provide creative solutions to this complex issue. Thank you again for the opportunity to discuss the Department's efforts, and I now look forward to answering any questions you may have.