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MEMBER



Special needs require special lawyers.

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DEMENTIA AND THE VANISHING LEGACY

A recent *Smart Money* article addressed the issue of dementia and its effect on a person's finances. The current problems in the economy are difficult enough, but for a senior with dementia, the problems are magnified.

The symptoms of dementia – memory loss, confusion and wild mood swings, among others – are widely known and discussed. One potentially devastating side effect of dementia is that it can cause people to make terrible financial decisions. This problem extends far beyond the loss of the ability to balance the checkbook. Family members report that people with dementia have misread what they owe in taxes, watched as their investments plunged in value, and have told their brokers to “buy” when they meant “sell.” There have been increasing cases of seniors with dementia who are investing in risky financial products or trading stocks to their detriment.

This problem could get much worse for the baby boomers. A Duke University study estimates that 14% of people over the age of 70 years have dementia in some form. If this trend continues, more than 11 million baby boomers could develop dementia. Couple this statistic with the fact that the baby boomers control over \$19 trillion in assets, and experts fear that many baby boomers could unwittingly destroy their nest eggs. Unfortunately, there are few laws, policies or standards to handle this situation.

Some financial planners and brokers try to talk with family members if they suspect that their clients are suffering from dementia. On the other hand, many financial advisers have little contact with their aging clients, and thus they may not notice shifts in behavior. Regulating how securities are sold to seniors can be difficult, in part because dementia can be hard to prove. The client can be confused one minute and lucid the next. The Financial Industry Regulatory Authority, the broker-funded agency that oversees brokers and securities firms, has guidelines on working with clients with diminished capacity, but they are only guidelines. Brokers are required only to sell

clients “suitable” products, unlike financial advisors who are legally bound to act in a client’s interest first and foremost. Brokers and financial advisors have to tread cautiously; they do not want to stereotype seniors, but they do not want to be subject to strict limitations on working with seniors.

The current trend is to educate rather than regulate. The Senate Committee on Aging and the Securities and Exchange Commission are considering various ideas, but no clear plans have emerged regarding legislation or regulations. AARP released a booklet with the Financial Planning Association regarding aging clients, but AARP has no new policy positions. Under the existing rules, it can be difficult for a broker to work with a client to do what is “suitable,” if the client wants to do something different. Some brokers have said that if they are too forceful with senior clients, then the clients become angry or go to a different broker. On the other hand, there are many seniors who are healthy, active traders.

What can seniors and their families do to prevent these problems? One suggestion is to follow the 70-40 rule; when an investor turns 70 or a child turns 40, they should discuss options such as a general durable power of attorney, or specific powers of attorney required by the senior’s financial institutions. Family members may want to agree to be present at meetings with the broker or financial advisor, or at least agree to draft a document setting out specific investment goals. As time goes on, the family may want to hire a money manager to make sure the bills are paid, or the family may handle these duties. If these measures do not work, for example, if the parents refuse to execute powers of attorney, then the children may have to resort to court-ordered guardianship and conservatorship. Open communication among seniors and their children is the first step.

The attorneys at Oast & Hook can assist clients with their estate, financial, investment, long-term care, and special needs planning issues.

Ask Allie

O&H: Allie, we know you are still a young cat, but many of our readers have older pets. Do you have any helpful hints for them?

Allie: Yes, I do. Because pets age at a faster rate than humans, pets begin to enter their golden years at about age 7 years. Because prevention is the key to longevity for pets (as well as humans), once pets reach that age, you should consider bringing them in for checkups twice a year rather than once a year. In addition to the thorough physical exam, geriatric exams usually include blood work, urinalysis and other diagnostic tests. These tests can help identify diseases in their early stages. There are a few extra things you can do to make life easier for your pets as they age. Make sure your pet’s bedding is extra comfy, best suits your pet’s needs, and is washable. Make it easier for your pet to get up and down from the furniture (if getting on the furniture is allowed), by using a ramp or steps up to the sofa or bed. Provide mental and physical stimulation to keep your pet as active as possible. Brush your pet’s teeth, or ensure that the veterinarian does; it is critical for pets to prevent dental disease. Finally, maintain regular professional or at-home grooming throughout your pet’s life. Older pets are worth every bit of

effort, because their return to you is priceless. Hmm, all that talk about comfy bedding makes me ready for a nap....



Please feel free to e-mail your pet- and animal-related questions to Allie at: allie@oasthook.com.

Announcements

The Chesapeake, Oast & Hook, and TowneBank will co-present two seminars entitled “Long-term Care Planning in the Current Economy” at 6:30 p.m., Thursday, April 30th and at 1:00 p.m., Thursday, May 7th at The Chesapeake, 955 Harpersville Road, Newport News, Virginia. Seats are limited, so please register early. For more information or to register, please phone Jennifer Lantz at 757-399-7506.

Save the date for some spring cleaning. From 10:00 a.m. to 1:00 p.m., Saturday, May 9th, Stealth Shredding will have a truck at Oast & Hook’s Portsmouth office so Oast & Hook’s clients and friends can bring their papers to be shredded at no cost. (Stealth Shredding recycles the shredded material.)



Distribution of This Newsletter

Oast & Hook encourages you to share this newsletter with anyone who is interested in issues pertaining to the elderly, the disabled and their advocates. The information in this newsletter may be copied and distributed, without charge and without permission, but with appropriate citation to Oast & Hook, P.C. If you are interested in a free subscription to the *Oast & Hook News*, then please e-mail us at mail@oasthook.com, telephone us at 757-399-7506, or fax us at 757-397-1267.

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