

Abusive Marketing of Annuities to Seniors:
"Treat them like they're blind 12-year olds..."
(Wall Street Journal, 7/22/02)

Beware of trust mills, free lunches, and seminars with a sales motive. A "trust mill" is a term that refers to an organization that markets estate planning services and annuities to seniors through seminars conducted primarily by non-attorneys.

The Wall Street Journal article titled "Annuities 101: Marketing to Seniors" referred to a training session of "Annuity University," in coaching annuity salesmen about selling annuities to seniors as follows:

- "Treat them like they're blind 12-year olds...,"
- "You're there to solve their problems, but you have to create those problems first. No problems, no sale."
- "Tell them you can protect their life savings from nursing-home and Medicaid seizure. They don't know what it is, but it sounds scary," and
- "It's about putting a pitchfork in their chest."

Although these unethical marketing practices are not typical of the average annuity salesperson, it does put investors on notice to proceed with caution.

Trust mill seminars generally focus on the disadvantages of probate, related expenses and attorney fees. Although not limited to seniors, the seminars are a common method used to market deferred annuities. Attendees are encouraged to make appointments in "the privacy of their own homes." (Isolation is a primary element of financial elder abuse and exploitation.)

The initial meeting at the home of the senior involves meeting with a non-attorney who assists in gathering financial information including tax returns, financial statements, and other private information. Since no attorney-client privilege exists as to the privacy of the information disclosed, any information divulged at the meeting can be shared for sales and marketing purposes.

"In the final analysis, it is the annuity sales commissions that sustain the trust mill... This puts the consumer at risk because they are shortchanged the valuable advice they truly seek about what is an appropriate way to plan their estate and they are not provided with a sales-free environment to contemplate important estate issues," according to the Consumer Protection Issues and Public Policy Recommendations of the National Association of Elder Law Attorneys.

After the information has been obtained, the sales rep gets a check for the preparation of estate planning documents that will be prepared for a modest fee. Very low fees are frequently

the irresistible bait that pulls normally cautious seniors into this precarious situation. There may be a promise that an attorney will review the documents, but that attorney is not the person who initially met with the senior. There is no independent review by an attorney who is not involved in selling financial products.

The second meeting at the senior's house is usually with a notary or licensed insurance agent. The documents are signed and notarized with the suggestion that assets are put in a probate-safe annuity. The senior may not already know that any asset titled into a trust will avoid probate.

Annuities are popular investment choices that can be an important piece of a good financial plan, but are sometimes misunderstood. Investors who purchase annuities must understand how to balance their future needs with their overall investment picture.

An annuity refers to a type of investment that pays the investor a set amount of money every month or year for a specific number of years. Variable annuities consist of separate accounts within the annuity that buy shares of equity investments, similar to how a mutual fund works. It allows the annuity owner to change investments within the annuity and also is sensitive to the volatility of the stock market. Most variable annuities have fees which are paid to the annuity

company on a regular interval in addition to surrender charges that are generally a percentage of the overall account and charged against the full or partial surrender of the policy.

Another type of annuity is the fixed annuity that pays a guaranteed interest rate for a period of years, which is credited to the account at regular intervals. The returns on fixed annuities can also be tied to the prime rate or some other standard that can fluctuate based on the moves the Federal Reserve makes during the life of the annuity.

"An annuity that pays a fixed immediate income offers seniors a lot of security," says Jean Setzfand, director of financial security with AARP. "But a deferred annuity is almost always a bad idea for a retiree." Deferred annuities, however, offer salespersons large commissions, which is one reason so many are sold each year.

While a deferred annuity can be a good way for some wealthy seniors to pass money to their heirs, it is not a good product for seniors living off their savings because they may die before they receive their money. Selling a \$100,000 deferred annuity, for example, typically earns a sales rep \$9,000 although buyers are prohibited from withdrawing the money for ten years. Annuities tied up for less time carry much smaller commissions.

Selling an annuity to an older person who cashes in the annuity before maturity results in surrender charges that create fees for the annuity salesperson. Reducing surrender charges for annuities reduces the commissions paid.

Non-lawyers should be held accountable for misleading seniors about annuities being safe havens that protect assets from Medicaid. The annuities that are typically sold through trust mills are deferred annuities which do not meet the guidelines as an unavailable asset when planning for Medicaid eligibility.

Seniors must proceed with caution and keep their guard up when dealing with financial matters. Learning about the ins and out of annuities is necessary to make sure the proper use of an annuity is appropriate in any given situation.

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