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Court-appointed conservator accused of stealing from incapacitated persons she was supposed to protect

“THE BIG FLEECE” By [Pam Zubeck](#) [@PZubeck](#)

Andria Beauvais was so deeply embedded in the Colorado Springs fiduciary practice for which she worked that its owners chose her to take over when they retired.

Trusting her “like family,” her bosses literally handed her blank checks to pay bills for at least 10 incapacitated persons whose assets the practice oversaw.



El Paso County Sheriff's Office - Andria Beauvais

But over a five-year period, Beauvais, 49, of Colorado Springs, fleeced those clients of more than \$400,000, stashing that money in a series of accounts she owned, including one labeled “Sheehan’s Pixie Dust Dynasty Trust,” according to a Colorado Springs Police Department arrest affidavit. The trust account borrowed the name from an online Celtic Dance store Beauvais ran.

Moreover, police allege, Beauvais failed to report those ill-gotten gains on her income tax filings and came under the Department of Veterans Affairs' scrutiny because some of her clients received VA benefits.

An alleged victim's daughter first blew the whistle in 2018, followed separately by an auditor from the Colorado Judicial Department last year. But police say the thefts date back to 2013, raising questions about why the 4th Judicial District Court's own auditors didn't flag activities that now form the basis for 10 felony charges.

Some or all of the people she served fell within the purview of the 4th Judicial District, which covers El Paso and Teller counties.

It's impossible to know what qualified Beauvais to act as a conservator, a duty she apparently performed from at least 2013, based on the affidavit, because the state has no certification, licensing or oversight requirements.

The Beauvais case stands out because charging conservators with crimes against the very people they've been appointed to protect is rare. She's one of only three conservators to face charges in Colorado since 2013.

But system reformers claim such crimes occur frequently in a system they see as dysfunctional, reeking of fraud and deserving of the label "the perfect crime."

That was the title of the [Indy's Jan. 8 cover story](#) that explored the probate system and revealed anyone can become a conservator, the courts' oversight is lax, records and proceedings aren't open to the public and law enforcement is skittish about second-guessing conservators' actions, which often appear to be sanctioned by the courts.

In short, the probate courts offer fertile ground for unqualified people and unscrupulous lawyers to raid accounts of those who can't speak for themselves. They game the system both legally, through exorbitant but rarely scrutinized fees, and illegally, through outright theft, embezzlement and fraud.

"Estate trafficking through the probate system is commonplace nationwide," Rick Black, founder of the Cornelius, North Carolina-based Center for Estate Administration Reform (CEAR), tells the *Indy*. "All attorneys and all judges for different reasons deny that it can ever happen. They won't admit the system is dysfunctional. Through that system, predatory attorneys can take advantage of vulnerable persons quite routinely."

Conservators need not be licensed in Colorado and aren't vetted by anyone for past criminal activity or financial red flags. Nor is any training required. Probate judges appoint them to handle assets of people who, in the opinion of the court, are incapable of making their own decisions. In some cases, people willingly hire

conservators to look after their financial affairs and spend their money in their best interest.

Incapacitated persons include the disabled and the elderly who suffer from memory issues, dementia or physical challenges. But not always. Pop star Britney Spears remains under the oversight of a conservator appointed in 2008 after she went through several mental breakdowns, and though she appears to be capable today, that oversight was extended in February, according to the *International Business Times*.



Rick Black, head of the Center for Estate Administration Reform.

As the *Indy* reported in January, the conservator system can invite fraud because it operates behind a veil of secrecy. Probate court records are off-limits to the public; only those with a direct stake in the outcome have a voice, and even then a person holding a power of attorney can be sidelined by the court. Sometimes conservators trump the wishes of family members and dear friends, all while cranking out billings to the protected persons' estates, and even stealing from them.

Black and several Colorado Springs residents say they know people who have essentially disappeared into the probate system under the so-called care of conservators (who oversee assets) and guardians (who monitor a person's well-being) in a system that likely harbors dozens, hundreds or even thousands of bad actors who exploit incapacitated persons.

Law enforcement at times shies away from such cases for a couple of reasons. First, conservators and guardians, appointed by judges, enjoy wide leeway in paying bills, liquidating assets, hiring lawyers and dictating how and where the people they oversee live, and even who can visit them. While they're required to file annual

reports with the court that established the conservatorship showing how money is spent, those reports — closed to anyone without standing in that case — are rarely challenged or audited against supporting documentation.

Second, investigations of conservators can be time-consuming. The CSPD's probe of Beauvais' activities stretched back through five years' worth of records and spanned 15 months before the detective sought an arrest warrant.

Reformers like Black predict things will only get worse, because opportunities for fraud will skyrocket as baby boomers age and form a generation of targets. The Beauvais case, as alleged, appears to be a classic example of what reformers are fighting.

The facts, as investigated by CSPD detective Robert Campbell, a 17-year veteran officer, are laid out in his 13-page affidavit submitted July 10, 2019, seeking Beauvais' arrest.

After analyzing a string of bank accounts Beauvais used in her alleged thefts, Campbell concluded she transferred \$402,439 of clients' money into her accounts from May 2013 to January 2018.

The investigation began in May 2018 when Barbara Dowski reported to police that Beauvais and a fiduciary, Terrence Zearth, had "mismanaged" the assets of her mother, Barbara Moore, age 90 at that time.

Moore initially lived at Bear Creek Assisted Living in Colorado Springs and in 2013 moved to Louisville. Zearth remained her conservator after the move.

Dowski told officers she first learned something was amiss when her mom's doctor contacted her in spring 2017 saying Medicare had refused a claim. Dowski soon learned her mother's Medicare coverage had lapsed and that all Moore's medical bills were being paid from her own funds, rather than Medicare.

“How do you change the system the way it's set up?” – BARBARA DOWSKI

Dowski's calls to Beauvais went unreturned. The affidavit says Beauvais then hired a lawyer, funded with \$5,100 of Moore's money, who accused Dowski of "draining" her mother's finances, even though Dowski wasn't her conservator during that time.

Dowski was able to persuade a judge to freeze her mom's assets, and Beauvais resigned as conservator. Dowski then went to work to document misappropriations through bank records and conservator reports.

Dowski tells the *Indy* her mother chose to have her assets managed by a conservator because, “She didn’t want to burden me or my brothers.”

As a longtime risk manager for Fortune 500 companies, she was well equipped to spot abnormalities, she says, and soon found that “some things just didn’t add up.”

After subpoenaing bank records from various banks and matching them against conservator reports, her suspicions were validated.

Dowski found those reports reflected 11 payments made to Moore’s dentist, totaling \$55,550. But inspection of bank records revealed that seven of those checks, totaling \$28,613, were written to Beauvais and a bank account Beauvais controlled. In fact, the paper trail led to four different banks in which Beauvais stashed money, the CSPD affidavit says.

The dentist later confirmed he did not receive all the money Beauvais had claimed, in a conservator report, was paid to him.

Six of the seven checks had been signed by Zearth, the court-appointed conservator. The other was signed by Beauvais. Detective Campbell notes in the affidavit that Zearth signed all checks written on Moore’s accounts until February 2013 and signed the annual conservator reports filed with the court for 2013 through 2016.

Zearth told Campbell in an interview that Beauvais worked for him and “as time went on he gave Ms. Beauvais more and more leeway and added that she became like family.”

Trusting her, he and his partner literally handed over blank checks to Beauvais, with their signatures, to pay invoices that Zearth told Campbell he now believes were bogus.

While law enforcement can be reluctant to investigate conservator cases, Dowski reports the CSPD was “highly responsive” in this case, despite an apparent lack of resources.

Dowski has since become her mom’s conservator and is pursuing legal action against others in the probate case. Documents in the case aren’t available to the public.

Looking back, Dowski says she’s committed to doing what she can to change the system for other families who might not possess her skills or the means to conduct audits and navigate the probate court.

“How do you change the system the way it’s set up?” she says in frustration.

As it was, Beauvais' take from Moore alone totaled \$118,677 via 27 checks written on Moore's account from June 2013 to December 2017, the affidavit says.

But that was only the tip of the iceberg, Campbell soon discovered.

Beauvais also is accused of taking money from nine others, ranging in age from 31 to 97, under conservatorships in which she had a hand. She wrote checks to herself but claimed in annual conservator reports filed with the court that the payments went to nursing homes, a community college, medical providers, an auto repair shop, other caregivers and gift cards. In one case, she deposited a check from a protected person's account into her own Navy Federal Credit Union account labeled "Sheehan's Pixie Dust Dynasty Trust."

Those alleged victims came to light when Campbell investigated Beauvais' bank accounts at Waypoint Bank, Chase Bank, Ent Credit Union and USAA. He also obtained conservator reports from the court from July 2013 to November 2018. While sifting through all those records, Campbell "observed there were numerous checks from several other clients that were suspicious in nature," he says in the affidavit. Those cases involved five alleged victims. Amid his investigation, another officer working in CSPD's Cold Fraud Unit took a report from Bret Cogdill, an auditor with the Colorado Judicial Department's Protective Proceedings Audit unit (PPA).

Cogdill, while auditing Beauvais' conservator reports as part of the state's regular practice, identified misappropriation of accounts belonging to two others.

And there might be other victims as well. Notes Campbell, "I located several other parties who had checks drawn on their accounts made out to Ms. Beauvais that appeared to be suspicious," he wrote. "I was unable to locate any probate dockets for those parties in the Colorado Court database, and had limited identifying information on them."

Campbell then contacted the Department of Veterans Affairs, which he said had also opened an investigation of Beauvais' alleged misappropriation of funds, because some of those already identified as potential victims were VA clients.

Nine of the 10 people from whom Beauvais allegedly stole money were women who ranged in age from 51 to 97; the other was a 31-year-old male. Three have since died, and their survivors are named in the affidavit as victims.

Generally, Beauvais' alleged MO was to simply write checks from accounts owned by those she oversaw as conservator and deposit them in her accounts. In one case, she used a woman's account to pay her own \$14,000 credit card bill.

While most checks weren't reported in conservator reports at all, others were reported as having been paid to others. For example, she stated in a conservator report that two checks totaling \$9,150 went to "Medallion Healthcare," when in reality they went into her accounts. In another, she claimed she wrote checks for thousands of dollars to Penrose Hospital and Centura Health, but actually deposited the money into her accounts.

In one case, she claimed a 68-year-old woman spent more than \$1,000 on gift cards, though those familiar with her affairs told Campbell they "did not know [her] to use gift cards... ."

"Estate trafficking through the probate system is commonplace nationwide."— RICK BLACK, Founder of the CENTER FOR ESTATE ADMINISTRATION REFORM

More boldly, Beauvais allegedly misappropriated royalty payments valued at \$21,000 from one of her clients, though the records are incomplete, Campbell noted. However, that same client's account was allegedly stripped of \$14,540 by Beauvais. Nineteen days after Cogdill, the state auditor, filed a "Notice and Order for Audit" on the bank records, Beauvais made a \$14,540 deposit in April 2019 into that client's account, noting on the bank deposit slip "bank correction."

In May 2019, she made a \$16,000 deposit into another client's account to allegedly cover up four separate thefts of \$4,000 each in 2017 and 2018 from the client's trust fund. She also appears to have altered bank records to obscure her endorsement of some checks she wrote to her own accounts, the affidavit says.

Lastly, Beauvais allegedly made out a check to herself signed by Zebarth's then-partner, Mark Elliott of Elliott Fiduciary, in the amount of \$37,733 and noted in the memo line it was for an "inheritance distribution." Elliott told Campbell that money was not due her but rather the protected person's heir. Elliott also said that while he did give Beauvais signed checks with instructions of who to write them to and for how much, "it is possible he did not sign the check."

Detective Campbell and the District Attorney's Office declined to comment on the pending criminal case, and Beauvais' attorney, Jeremy Lowe, told police she "was invoking her right to remain silent," the affidavit says. The CSPD refused to release the police reports for the case, citing pending prosecution.

But the Beauvais matter represents what some see as the inevitable outcome of lax or nonexistent laws surrounding conservators.



Colorado requires conservators to file spending reports, but with little oversight.

Colorado requires conservators to file annual reports of spending but lacks resources to thoroughly monitor those reports on a regular basis, and there's no evidence that judges and magistrates assigned to preside over probate courts have the depth of knowledge about forensic financial matters to detect fraud. Also, it's unclear how much time judges spend studying the conservator reports.

In addition, there's no board assigned the task of overseeing conservators. The 4th Judicial District has two auditors charged with reviewing filings in conservator cases, but district cases involving conservators number in the hundreds if not thousands.

A 2006 probate court oversight report to state legislators noted that compliance with policies that require monitoring of initial reports, due for filing within 60 days of a conservator being appointed, and annual reports thereafter was uneven at best.

Of 114 cases from 2003 of conservators or guardians or a combination of the two reviewed in six judicial districts, including Colorado Springs, 70 conservators and/or guardians were required to file initial and annual reports. Of those 70, more than half — 57 percent — failed to file either an initial report or one or more annual reports.

Two of six district courts reviewed didn't systematically identify and follow up on missing financial reports and other documents. Auditors also noted current court practices for reviewing reports "were insufficient to identify errors and inappropriate expenses." Moreover, even if courts did review the reports, those reports typically lacked detail and supporting documentation, and courts didn't follow up on questionable spending.

In addition, the audit found that fees charged in probate cases seem to be whatever the traffic would bear. One social worker charged \$158 per hour, several times the going rate for social workers of up to \$27 per hour. An attorney acting as a conservator charged \$145 per hour for non-legal tasks such as talking to an electrician or the client's neighbors.

That 2006 audit called for beefed-up procedures for determining qualifications of and required training for conservators.

But by 2011, not much had changed, according to a state audit of judicial branch oversight of guardianships and conservatorships. “The courts’ processes do not ensure that the rights, welfare, and assets of wards are adequately protected from the time the appointment of a guardian or conservator is sought until the appointment is terminated,” it said.

Specifically, it found the filing of reports slipshod and follow-up of those reports hit and miss. First, judges didn’t always review annual and final reports, and when they did conduct such reviews, they were not “as thorough as needed to ensure that guardians and conservators are complying with court orders and acting in the best interest of the wards.”



The 4th Judicial District Court’s auditors failed to spot Beauvais’ alleged thefts.

In one area, there seems to have been a modicum of progress, triggered by a Colorado Judicial Branch report in 2017 that focused on public administrators (PAs), who are appointed by judges to act as fiduciaries of last resort when no one else is willing to act as conservator.

The report said public administrators:

- Failed to consistently provide courts with information to justify fees and costs;
- Weren’t sufficiently monitored on performance; and
- Didn’t always maintain required bonds. Half of those reviewed couldn’t provide evidence of bonding, which at that time was a mere \$25,000, to ensure errors would be covered.

But Catherine Seal, PA in the 4th Judicial District, tells the *Indy* via email that a PA working group on which she serves created a set of best practices and a standard reporting form. One outcome was adoption of a form PAs must file for each case showing what happened to the funds, regardless of the size of the estate.

“The guidelines were in part developed to help new PA’s understand their obligations and warn them of potential conflicts of interest they needed to avoid,”

she says. “The state supreme court was willing to accept our guidelines without a lot of changes as a response to the audit, which called attention to the problems created by lack of such guidelines and failure of courts to review public administrators on an annual basis.”

But that just scratches the surface, says CEAR’s Black, who formed the nonprofit after a guardianship dispute over this father-in-law ran up \$1.3 million in attorney fees, and Black still lost out to what he calls the “predator.”

Black’s organization advocates for states to open probate records to the public for scrutiny, to impose third-party auditing that audits every record, and to establish an appeals board not beholden to local attorneys and judges to hear contested conservator or guardianship cases.

“Sealing records and not recording all hearings give the public a marked disadvantage versus the predatory attorneys and guardians who are welcomed in these courts every day of a week,” he says.

As for the Beauvais case, it should thrust every matter in which she took part under the microscope, Black says. “I would put a couple of forensic accountants on it to go through all of it,” he says.

Beauvais’ alleged activities, in all likelihood, represent a fraction of misappropriations taking place in El Paso County, the state and the nation, he adds.

While one avenue of discovery of Beauvais’ activities came via a protective proceedings audit carried out by the Colorado Judicial Department, those audits are few and far between.

Jon Sarché, the department’s deputy public information officer, says via email in response to the *Indy’s* questions that only two protective proceedings auditors (PPAs) cover the entire state and audit an average of 30 to 35 cases per year, “so we do not audit every annual report that is filed, nor do we perform audits on every conservatorship case.”

From April 2013 to December 2019, the PPAs completed audits of 223 cases, a tiny fraction of the thousands of conservatorships in place in Colorado. New probate case filings increased by 32 percent between fiscal years 2009 and 2018, rising from 11,443 to 16,738.

Of those 223 audited cases, 125 had no issues or only “minor” problems such as math errors. But 98 had issues that included misappropriating funds, inability to substantiate income or expenses due to lack of documentation, commingling funds between the conservator and estate, and unauthorized gifts and loans.

One reason for the high rate of cases with problems stems from those cases having been referred by court staff where the courts had “already identified concerns, and the nature of our auditor case selection process which targets more complex cases or cases with activity on the face of the report that indicates an audit may be beneficial,” Sarché says.

Besides identifying outright fraud, PPAs have uncovered fees that appear excessive based on the level of activity and complexity of work, fees that exceed those stated in the estate’s financial plan and fees that simply are not substantiated. But Sarché notes that statutes don’t specify that the court must approve billings in advance made by estates to conservators, meaning those might be discovered, or not, as being excessive months or years after the fact.

Beauvais faces 10 Class 3 felony counts, each of which carries potential punishment of up to eight years in prison and a minimum fine of \$3,000.

While PPAs serve in only an advisory role to judges and court personnel, they have authority to obtain documentation beyond the conservator reports filed with the courts annually, including bank statements, invoices and tax returns as part of their audits. If something inappropriate is discovered, though, judges, not PPAs, decide whether to release the findings to the conservator and other parties and order any additional steps, including referral for criminal investigation.

Hence, it’s impossible for the public to know whether protective proceedings audits have unearthed findings of fraud that haven’t been acted upon.

Sarché says the PPA unit is aware of three conservator cases that judges across Colorado referred to prosecutors — one in 2013, one in 2017 and a third in 2019, which likely is the Beauvais case.

Like Beauvais’ case, the 2017 case is pending. The 2013 case, in which the amount in question was \$10,000, never made it to criminal court, Sarché says, noting the conservator repaid the estate, and law enforcement and prosecutors “chose not to move forward.”

But many more conservator cases might have been referred for criminal investigation outside the PPA process, Sarché notes, because the auditing unit doesn’t track those referrals.

Two full-time auditors inspect conservator reports in the 4th Judicial District, but the *Indy* was unable to reach someone with the court — the courthouse has been closed during the COVID-19 crisis — to explain why those auditors apparently failed to identify Beauvais’ alleged thefts, some of which ultimately caught the attention of state PPA Cogdill last year.

Zebarth, the conservator for whom Beauvais worked, couldn't be reached for comment and reportedly has retired and moved to Kentucky.



Andria Beauvais leaving her hearing.

But his former partner, Mark Elliott, tells the *Indy* that to this day, he doesn't know exactly how Beauvais was able to allegedly loot their clients' accounts.

"What we would do, we'd pick up all the bills due that day," he says by phone. "These checks needed to be written. She would write those checks, and we would review them and sign them and put them on their way. I don't know how that happened. Whether she forged our signatures, I don't know, or whether she slipped a check in we didn't see."

Beauvais was such a valued employee, he says, that he and Zebarth had chosen her to take over the business when they retired. When police showed up asking questions, Elliott says, "It was very shocking. You get betrayed. And she was going to inherit the business."

After he was informed of her alleged activities, Elliott says he changed procedures to tighten up controls of clients' accounts, spending more time reconciling bank statements and the like.

"I've been back through every account we have and looked at every check," he says, adding he doesn't know how the two probate court auditors in the 4th Judicial District failed to identify Beauvais' alleged pilfering of clients' accounts.

At least one family member — Dowski — did the legwork required to make a case against Beauvais without police intervention. Her brother, Thomas Moore, told police Dowski signed a nondisclosure agreement with Beauvais in exchange for a payment from Beauvais of about \$170,000. A Denver law firm named in the police affidavit as facilitating the settlement on Beauvais' behalf didn't respond to a request for comment, and Dowski says she can't discuss the matter.

Tom Rodriguez, a Louisville attorney who represents Dowski, said via email that the fiasco involving Dowski's mother spurred him to get involved.

"The lack of regulations surrounding professional fiduciaries remains a concern, particularly since there are many very good professional fiduciaries in Colorado that perform a needed service for the elderly and disabled," he says. "This situation has prompted us to start working on drafting appropriate regulations aimed at avoiding these types of tragedies in the future." He declined to elaborate.

It's unclear whether the VA will bring an action against Beauvais. The VA's Office of Investigations tells the *Indy* in an email that its policy is not to confirm or deny the existence of investigations.

Nor is it known if the state of Colorado or the IRS will pursue a case regarding Beauvais' tax liability associated with her alleged thefts. Individuals' tax information is private.

Even if Beauvais is convicted, though, whether by a jury or in a plea bargain, there's no guarantee those clients and their families will be reimbursed for their losses.

"They'll never get it back," Black predicts. "The vast majority of her victims will get nothing, and if she hid the money effectively, she'll never pay."

Beauvais faces 10 Class 3 felony counts, each of which carries potential punishment of up to eight years in prison and a minimum fine of \$3,000. She remains free on \$10,000 bond, pending a June 22 hearing where she's scheduled to enter a plea.