FRAUDULENT GUARDIANSHIPS:
EVERYTHING LAW ENFORCEMENT
NEEDS TO KNOW

Americans Against Abusive
Probate Guardianship

Rick Black – November 29, 2017
Director - AAAPG.net
Leader - Clark County (Nevada) Adult Guardianship Abuse Victims’ Coalition
Lead Clark County Court Records Investigation to expose Pattern and Practice of Corruption and gained Nevada Attorney General Investigation
Investigated over 400 adult guardianship cases nationwide

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Assets Controlled by U.S. Elderly

Demographics

- $1.5 trillion transfers generationally each year today, grows to $2.5 trillion by 2025
- 65+ head of household average net worth $600,000
- 75+ head of household average net worth $300,000
- Conservatorship and Probate court intervention can divert all to unintended third parties

Conservatorship and Probate Proceedings are Big Bu$ine$$!!

Source: U.S. Federal Reserve and Metropolitan Life
How many Americans are affected?

Demographics*

- 0.5% of population or 1.3 million adults under guardianship.
- ≈ 180,000 adult guardianships added in 2016.
- Adult guardianships growing at 10% plus per year.

* Guardianships established and managed at a local level, only Minnesota and Idaho attempt to keep a state census of adult guardianships.

Source: National Center for State Courts and AARP, 2016
U.S. Vulnerable Elder Population Growth

U.S. Population Growth 65 +

![Bar chart showing population growth from 2010 to 2050](chart1.png)

- Baby Boomers enter retirement in 2011
- Population 65+ doubles from 2010 to 2050
- Population 85+ quadruples from 2010 to 2050

Source: U.S. Census Bureau, Population Div.; August 2008

U.S. Population 65+ with Alzheimer’s

![Line chart showing population with Alzheimer’s from 2010 to 2050](chart2.png)

- 500,000+ new Alzheimer’s cases in 2016
- 40% of those 75+ diagnosed with Alzheimer’s
- 75+ population triples, 12 million

Source: Alz.org 2015 Facts and Figures

Alzheimer’s, and other dementia, often make elder financial exploitation a lucrative and voiceless crime.
The Basics

Guardianship….the removal of all rights, decision making ability, and estate.

Granted to a third party by order of the court. “The Warden”.

Alleged incapacitated persons (AIP) who are placed into guardianship are referred to as “wards”.

All court appointed parties fees paid for by the ward’s estate.

Guardians provided “quasi” immunity by the appointing judicial officer.

Types of guardianship

- Conservatorship-Designated as a “conserver” of the estate for the ward, same as guardian of the estate.

- Plenary or General Guardianship-Guardian of Person and Estate.

- Guardian of the person controls rights of association, medical, residence, and travel.

- Limited Guardianship-Plenary Guardianship with limited rights.

  - Voting rights often maintained to preclude federal violations.
“Argument is not evidence” Common refrain by discredited Clark County Nevada adult guardianship hearingmaster, Commissioner Jon Norheim, to “alleged” incapacitated persons and designated executors objecting to his rulings.

- **Criminal Courts**
  - Evidence satisfies the jurists of guilt “beyond a reasonable doubt”
  - Significant oversight, checks and balances in place, jury trials

- **Civil Courts**
  - Evidence satisfies the jurists of guilt with a “preponderance of evidence”
  - Oversight, checks and balances in place, jury trials

- **Equity Tribunals**
  - Substantial evidence required to support a conclusion
  - Judicial officer acts alone as the trier of fact, wide judicial discretion, little oversight

Aggressive litigators **know** argument often prevails over evidence when the burden of proof is low.
Why does the system work this way?

“All human systems are perfectly designed to get the results they are now getting”

...Tom Northrup, Organizational Design Expert, SPC Consultant

Guardian

Guardian ad litem

Guardian attorney

Court appointed ward attorney

Suspect party attorney

Court monitors

Executor attorney

(Family funded)

Insiders...lots of cronyism

Guardianship

Estate

Trustees

Outsiders

Court’s Allies Focus on the Money...Conservatorship is THE Priority
Family dysfunction started with Adam and Eve.

“The biggest issue facing the elderly are their families” April 2016 President Kathleen Quinn of the National Adult Protective Services Association regarding integrating law enforcement into adult guardianship adjudication.

“The issue is family dysfunction requiring the court’s involvement” June 2015 Nevada Supreme Court Chief Justice James Hardesty regarding statewide guardianship fraud issues.

Family dysfunction is commonly used as an effective ruse “The Issue” is Evidence Backed Adjudication Integrity
The Predators

Victim/Family Controlled

Fraudulent guardianships…

Conservatorship with intent to financially exploit

Temporary Guardian Assignment

Guardian/Attorney Controlled

Guardianship exploitation…

Conservator assumes full control of the estate

Professional Conservators

Medical Institutions

$1.5 Trillion Annual Market

Fraudsters

Family

Legal Community Protects

Legal Community Facilitates

Conservatorship insures ALL estate funds are confiscated

1/7/2018
Family “dysfunction” is the time tested successful litigation strategy, suspect exploiters often defended by court allies.
**Fraudulent Guardianships - Myths Exploded**

### What families expect....

- Protect estate documents
- Protect the alleged incapacitated person
- Protect the family
- Uphold state and federal laws
- Conserve the estate, especially trusts
- Insure guardian accountability

### What attorneys know....

- Professional conservatorship is the priority
- “Story telling” embraced
- Estate documents routinely denied
- Defame the legitimate trustees
- Legitimize non-designated “blacksheep”
- Litigation is extended beyond death

“I'm an officer of the court whereas... You sir, don't know much about fiduciary situations. As a general rule, it is poor planning to have one sibling a fiduciary for another sibling or one sibling a fiduciary for multiple siblings after the death or substantial incapacity of a parent. Sir, if you knew anything at all about human nature, you would realize that upon the death of both parents or the significant incapacity of both parents, family dysfunctions rise. A sibling fiduciary in the midst of dysfunction is a poor choice in any context”...Email to Rick from Todd Torvinen, Esq. elder law attorney, guardian ad litem, personal friend of the judge, and former board member of Washoe Legal Services Carson City, NV (provide “pro bono” services). July 14, 2017

**Common trademarks:** isolate the ward, defame the family, liquidate the estate
Fraudulent Guardianships - Red Flags

Top Red Flags of Fraudulent Guardianships

- **Petition for Appointment of Guardianship**
  - Justification
  - Medical evidence...how obtained...how complete
  - Estate documents
  - Assets
  - Recognition or Defamation of executor
  - Exhibits to support
- **Guardianship Order**
  - Issue date versus initial hearing
- **Objection to the Petition for Guardianship**
  - Claims and Evidence
- **Initial Hearing**
  - Notice, minutes and recording
  - Alleged Incapacitated Person, testimony
- **Initial Inventory**
  - Timing and Completeness
  - Bank Statements
- **Annual Accountings**
  - Timing and Completeness
  - Bank Statements and receipts
Is there a solution?

Department of Justice Civil Division inquiring…


- **IN VOL UNTARI LY** placed into guardianship and advance directives or state law denied
- **IN VOL UNTARI L Y INSTITUTIONALIZED AND ISOLATED.** (Olmstead Act Violations)
- Collaborating with each state protection and advocacy group. (DHHS funded) to defend AIPs.

Federal Elder Abuse Prevention and Prosecution Act

- President Trump signed into law on October 18, 2017
- “Elder Justice Czar” to be appointed by DOJ in 2017. Appointee for each federal judicial district (94)
- Increased funding for training of law enforcement and prosecutorial resources on elder abuse.
- Specifically reinforces Power of Attorney, Conservators, and Guardians have no immunities to criminal investigations.

Federal engagement hopefully will address egregious state and local issues.
Closing Comments

Continue to Communicate the Issues with Leadership

• Executive, legislative, judicial, prosecutorial, and law enforcement.

Define the Risks

• $1.5 trillion a year industry can’t be managed on the honor system
• Law Enforcement and criminal prosecutorial oversight required

Needed Adult Guardianship Reforms in California

• Insure courtroom compliance with all federal and state laws during adjudication
• Third party financial auditing and investigative authorities established; Minnesota model.
• License and bond all guardians; no exceptions
• Law enforcement integration to insure criminal complaints are investigated or dismissed
• Statewide ward registry and asset tracking; transparency
• Designated state guardianship investigation board to field all complaints

Thank You!
Appendix
• Order signed in 24 hours, no notice, no hearing
• Ward not present at hearing a week later, psychiatrically incarcerated by the professional guardian the day before the hearing.
• Husband’s objections denied, fully defamed by the professional guardian
• 60 days pass and no initial inventory. $1.5 million estate all in trust
• Order signed in a week; no notice, no hearing
• Ward not present at hearing 2 weeks later
• Family objections and presentation of fraud on the court by Parks ignored by Norheim.
# REGISTER OF ACTIONS

**Case No:** 1996-2000
**Court:** Nevada State Court

## RELATED CASE INFORMATION

### Plaintiff
- **Name:** Garrett Dosch
- **Address:** 2003 North 1st Street, Las Vegas, NV 89101

### Defendant
- **Name:** Smith, Tracy K.
- **Address:** 2003 North 1st Street, Las Vegas, NV 89101

### Attorney
- **Name:** Charles, Eric E.
- **Address:** 2003 North 1st Street, Las Vegas, NV 89101

### Court
- **Date:** 01/04/2000
- **Time:** 10:37 AM
- **Description:** JUDGMENT FOR ATTORNEYS FEES

### Events & Orders of the Court
- **Date:** 01/04/2000
  - **Time:** 10:37 AM
  - **Description:** JUDGMENT FOR ATTORNEYS FEES

### Next Set: 03/07/2000

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**Footer:**
- **Date:** 1/7/2018
Eight more pages of litigation at the expense of the ward and family
12 years late the Conservator is forced to submit an accounting ...

Eleven years of accountings.

Forensic accounting indicates over $300,000 skimmed from the ward’s annuity.

18 months later CPA Joshua Gottesman (guardian of the estate) has withdrawn but still controls the entire estate, appears to have fled to California. NV CPA license revoked.

Criminal complaint submitted in October 2015, law enforcement claims an indictment is planned.
Ramiro Hernandez - 2012

Petitioner
Shafer, Jared E
PO BOX 50790
HENDERSON, NV 89016

Ward
Hernandez, Ramiro
2255 E Bonita AVE
Pomona, CA 91767

OTHER EVENTS AND HEARINGS

01/23/2012
Petition for Appointment of General Guardian
Petition For Appointment of General Guardian And Petition to Contine Litigation

02/01/2012
Citation
Citation to Appear and Show Cause

02/01/2012
Affidavit of Mailing
Certified Mail

02/21/2012
Filing
Filing of United States Postal Service Domestic Return Receipt

02/29/2012
Citation - HM (9:00 AM) (Judicial Officer Schechterman, Morissa)
Citation To Appear & Show Cause

Parties Present

03/02/2012
Result: Granted

03/12/2012
Affidavit
Filing of Medical Records

03/20/2012
Order Appointing General Guardian & Ward

Guardian of Estate
Shafer, Jared E
PO BOX 50790
HENDERSON, NV 89016

Petitioner
Shafer, Jared E
PO BOX 50790
HENDERSON, NV 89016

02/29/2012
Citation - HM (9:00 AM) (Judicial Officer Norshim, Jon)
Citation To Appear & Show Cause

Parties Present

02/29/2012 9:00 AM
Guardian of Estate
Shafer, Jared E
Tyrell, Eyze, ESG - Attorney

1/7/2018
ORDER AUTHORIZING GUARDIAN TO COMPROMISE CLAIM AND ORDER AUTHORIZING PAYMENT OF ATTORNEYS FEES AND COSTS

Date of Hearing: 02/04/15
Time of Hearing: 9:30 a.m.

Upon review of the verified Petition for Authority to Compromise Claim and Petition for Payment of Attorneys Fees filed by JARED E. SHAFER, Guardian of the estate of RAMIRO HERNANDEZ, an adult ward, the court having considered the same and having found that all allegations contained therein are true and correct, and good cause appearing therefor,

NOW, THEREFORE, IT IS HEREBY ORDERED that JARED E. SHAFER is authorized and directed to accept the settlement offer, the terms of which are confidential and have been provided to the court, in camera, as and full and complete satisfaction of its claim against the responsible parties; and it is

FURTHER ORDERED that JARED E. SHAFER is authorized and directed to execute any and all releases, assignments and other documentation in order to effectuate the instant settlement and resolve the
ORDER APPOINTING GENERAL GUARDIAN AND ORDER AUTHORIZING GUARDIAN TO CONTINUE LITIGATION

Date of Hearing: 02/29/12
Time of Hearing: 9:00 a.m.

This matter having come on regularly for hearing before the above-entitled court on the 29th day of February, 2012, upon the verified Petition for Appointment of General Guardian and Petition to Continue Litigation filed by JARED E. SHAFER, the court having considered the same and having found that **all allegations contained therein are true and correct**, and good cause appearing therefor,

NOW, THEREFORE, IT IS HEREBY ORDERED AND DETERMINED that

RAMIRO HERNANDEZ is a resident of the State of Nevada and is incompetent to manage his own financial affairs and it is

FURTHER ORDERED that JARED E. SHAFER be, and he is hereby appointed to act as General Guardian of the estate of RAMIRO HERNANDEZ, and Letters of Guardianship shall issue to the said
In the Matter of the Guardianship of the estate of RAMIRO HERNANDEZ, an Adult Ward.

ERRATA TO FIRST AND FINAL ACCOUNT AND REPORT OF GUARDIAN, PETITION FOR PAYMENT OF FEES AND PETITION FOR TERMINATION OF GUARDIANSHIP

Date of Hearing: 10/14/15
Time of Hearing: 9:30 a.m.

COMES NOW, the Guardian, JARED E. SHAFER, by and through his attorney, ELYSE M. TYRELL, ESQ., who files the instant Errata to his First and Final Account and Report of Guardian, Petition for Payment of Fees and Petition for Termination of Guardianship, and who alleges the following:

1. Petitioner informs the court that the value reflected on the Inventory and Record of Value which was previously filed was incorrect and the same has been amended. Inasmuch as that amount changed, so did the accounting portion of the first account and report. The actual accounting numbers are as follows:

   ...... 
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   ...... 

- 2 page final accounting for a 3 year guardianship
- No initial inventory, no annual accountings.
Ramiro Hernandez may have gained no benefit from his personal injury award. Ramiro remains in an ALF on Worker’s Compensation with no outside contact.
Exposure

- Writer Rachel Aviv of The New Yorker provides national exposure.
- Humanized the reality of fraudulent guardianships via the voices of the victims.
- Legitimized national experts studying the issue.

Dr. Pam Teaster, Director of the Center for Gerontology at Virginia Tech
The guardianship system is “a morass, a total mess…It is unconscionable that we
don’t have any data, when you think about the vast power given to a guardian.
It is one of society’s most drastic interventions.”
Arrested

• Estate awarded $16.4 million in Federal suit for breach of fiduciary duty by guardian Curtis Rogers and his attorneys.
• Isolated Oliver Bivins in an involuntary guardianship from 2011-2015.
• Judge Martin Colin refused to hear objections and petitions by the family
• Appeals to the Florida Supreme Court denied.
• Litigation cost the family over $2 million.
Sentenced

- Guardian Helen Natko for felony theft and exploitation of her ward in criminal court while probate court steadfastly protected her.
- 2016 GAO study found $600,000 in 8 fraud convictions. Shallow study…
- 2010 GAO study found 20 convictions with $5.4 million fraud.
- National Center for State Courts concerns – “System is in dire and much overdue need of reform”
Arrested

- Professional guardians and owners of Ayudando Guardian’s Susan Harris and Sharon Moore and Desert State Life’s Paul Donisthorpe
- Controlled over 1,400 estates in the last 10 years.
- Federal charges indicated over $10 million was unaccounted for.
- Probate Court endorsed all activities and seal records from the public.
- New Mexico Supreme Court presented them as model guardians just 2 days before they were arrested.
Arrested

- Professional guardian April Parks, her attorney Noel Simpson, her partner Mark Simmons, and her husband Gary Taylor.
- Victimized over 130 wards, with a net worth over $65 million
- Only charged them for $560,000 in theft.
- Judges routinely signed orders without a hearing, no inventory, and no accounting for involuntary guardianships. Clear intent to fraud.
- Judges denied every complaint from victims or their family from 2004-2015.