

Elder Financial Protection Network  
Call to Action 2012  
9<sup>th</sup> Annual National Summit

Keynote Remarks on May 24, 2012

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California Department of Financial Institutions

As I was preparing my remarks for today, I noticed in the Call to Action announcement the date, March 19, 2012. That is the day that I was sworn in as the new Commissioner for the Department of Financial Institutions. I was reminded that on that day, just 10 weeks ago, I swore to support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic. When I actually said those words out loud, with my husband, son and father watching me, I was moved to tears. One, because my mother, Helen Barnes, who died just 2 years ago at 78 and who I revered, was not there to witness this momentous occasion. Two, my oath to support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic meant for me not only the Constitutions, but also to support and defend the people of the United States and the people of the State of California, against all enemies, foreign and domestic. For me, individuals who financially exploit and prey on elders, by improperly using an elder's funds, property or assets, are domestic enemies of the elderly people of California. Financial institutions in the State of California, banks and credit unions, are often the first, and sometimes the only, line of defense against such predators.

As I have been with the Department of Financial Institutions for almost 10 weeks, one might ask, what credentials I have to speak about elder financial abuse. Eleven weeks ago, I was a partner at the law firm, Foley & Lardner, where I represented primarily banks. I also volunteered at Lawyers For One America, to provide *pro bono* legal services to the working poor to help them achieve economic self-sufficiency and to

provide financial literacy training. I have first-hand knowledge and experience with banks dealing with suspected financial elder abuse and how to identify and report such suspected abuse. Through my *pro bono* work, I also have first-hand knowledge and experience of family members trying to control an elder family member's money and assets to the detriment of the elder.

The most awkward situation I have faced occurred when an elderly woman and her daughter visited my *pro bono* office and asked that I prepare a living trust for the mother and financial power of attorney giving the daughter authority of the mother's affairs. I had an opportunity to speak with the mother without the daughter present and confirmed that the decision to have a living trust and power of attorney was a decision that the mother was making freely and knowingly. I also learned at that time that the mother had a second daughter, who I will call "the delusional daughter" who the mother was afraid would abuse her and take all of her money. It was because of actions and statements made by the delusional daughter that the mother wanted to set up the living trust and the financial power of attorney. The mother was quite bright and articulate and certainly competent to make her own decisions. So I assisted her with the requested documents on a *pro bono* basis. Several months after I represented the mother, a woman came to my same *pro bono* office and asked me to assist her in taking over her "incompetent" mother's finances and affairs. During the in-take process, it did not take me long to realize that this was the "delusional daughter". She had married and had a different last name than her mother and sister. Needless to say, I did not accept the engagement from the delusional daughter. Who became quite irate when I informed her that I was already representing her mother and had a non-waivable conflict.

Now, in my new role at the Department of Financial Institution, I continue to be interested in and responsible for banks and consumer affairs. In reviewing DFI's consumer services files for the last couple of years, I noticed that DFI had received a number of complaints against banks and credit unions involving elders. But it was not what you might think. These consumer complaints represented situations where a

family member was filing a complaint against a bank or credit union who was not giving that family member access to funds belonging to an elderly customer of such bank or credit union. In several instances, the family member purported to be a signatory to the account, when that was not the case. Or the financial institution had a concern about the legitimacy of a power of attorney and had refused to accept the POA. In most of the cases, the financial institution had filed a Report of Suspected Dependent Adult/Elder Financial Abuse with the appropriate county Adult Protective Services agency. This is why I consider banks and credit unions the first line of defense in the protection of one of our most precious and vulnerable groups of people, the elderly.

If you believe in the concept of following the money to find the abuser, financial institutions are often in the best position to identify a financial predator against the elderly. That is why the mandatory reporting by financial institutions in California of actual or suspected financial abuse is so critically important to protecting the people in California.

I may be new to the Department of Financial Institutions, but I swear to you, that I come prepared to continue to support and defend the elders in California against all enemies, foreign and domestic.

Thank you.