

# Risk Factors Within Families Associated With Elder Financial Exploitation by Relatives With Powers of Attorney

This phenomenological study focused on understanding possible risk factors within families that contribute to later Elder Financial Exploitation (EFE) by a relative who is granted power of attorney (POA). The data were primarily collected through interviews by three co-investigators on the research team, using an adaptation of Seidman's (1998) phenomenological approach. Using a peer-debriefing process, researchers' interpretations of interview transcripts were informed by field notes and discussions of the data until consensus was achieved on coding of particular excerpts salient to understanding family members' experiences and grouping of codes into categories and then themes. Preliminary results indicate that elders seemed to be more vulnerable because of problematic family relationships, including enabling behaviors prior to EFE, and unresolved conflict, trust issues, and unhealthy power dynamics among family members, such as coercion, acquiescence, and power struggles.

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Elder Financial Exploitation (EFE) is a growing problem internationally as the world population ages. Individuals aged 60 years and older are expected to number 2 billion by 2050, nearly double the number in 2015 (World Health Organization, 2015). Regardless of their health, financial, and cognitive status, older persons (often perceived as vulnerable) frequently are targeted for financial exploitation. What makes this even more insidious is that financial exploitation is often co-occurring with other forms of abuse, including physical, sexual, and emotional abuse and neglect (Acierno, Hernandez-Tejada, Muzzy, & Steve, 2009; Jackson & Hafemeister, 2011). Financial exploitation threatens the well-being of individuals across the lifespan—a key focus within the field of family and consumer sciences (FCS).

Elder financial exploitation (EFE) is a growing problem globally. This research focuses on the United States, where incidence has been growing since the 1980s (Vincenti, 2014) and is predicted to escalate by 2030 as the large Baby-Boomer population becomes vulnerable (Stiegel & VanCleave-Klem, 2008) and average life expectancy increases, exposing elders to this

risk for more years than earlier generations. In 2010, the total annual victim financial loss was estimated at approximately \$2.9 billion, up 12% from 2008 (MetLife Mature Market Institute, 2011). In addition, there are increased costs to Medicaid, the justice system, and community service agencies and organizations; also, costs are incurred for prevention, education, and research. Businesses unpaid by impoverished elders also suffer the consequences of EFE.

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This problem originated partly from a lack of understanding within the legal system of the complexity and intensity of family relationships. In 1964, power of attorney (POA) law was created as a simpler, less expensive, and less humiliating alternative than guardianship to manage individuals' affairs when they are unable to do so on their own. POA had accountability measures similar to those in guardianships, but between 1969 and 1987 they were gradually removed because relatives, most often appointed by elders as their agents, were assumed to be more trustworthy than strangers. By 1984, every state had adopted this less restrictive POA law, making it a popular end-of-life planning tool. Although no longer true, these early POA versions disallowed third parties such as bankers, attorneys, social service professionals, and family members to draw attention to agent abuse (Vu-Dinh, 2010).

Loosening the requirements seems to have triggered increasing POA financial exploitation because lack of oversight and broadly written powers make

it easy for attorneys-in-fact (agents) to abuse their authority. Because exploitation is difficult to prove and to prosecute, it has been called a "license to steal" despite the legal requirement to act as a fiduciary, meaning the agent is required to make decisions in the principal's best interest consistent with decisions the principal made before losing decision-making capacity (Stiegel, 2008).

Unfortunately, family members have become the most common perpetrators of EFE using POA. In 2009, Acierno et al. estimated that 5.2% of those 65 and older were afflicted with EFE from a family member. In addition to victim losses, costs to secondary victims, such as family members and the family unit, include lost wages, and legal, travel, and other incidental expenses incurred from attempts to address EFE. Even worse is the human toll on elders and family members; the stress causes fractures and estrangements, weakening the family unit for generations.

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Additionally, careful planning with the help of an attorney is too often bypassed and replaced with the use of readily available, inexpensive, electronic do-it-yourself POA forms. Given the lack of legal accountability for POA agents, significant responsibility falls on elders and their families to protect them from exploitation. However, because of the complexity of family relationships and the frequent resource exchanges within families, it is often difficult for family members to even recognize when this crime is occurring. Also, because of loyalty, family or personal pride, and fear of family

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conflict and blame, families tend to keep such inappropriate behavior secret and unreported to authorities even when recognized. For every case reported, an estimated 10 to 44 cases are unreported (Lachs, Psaty, Psaty, & Berman, 2011; Thomas, 2014). Inconsistent data collection in different jurisdictions has made it impossible to compile accurate prevalence data even from reported cases. Because there are numerous consequences of EFE, the most effective approach is prevention.

Why do family members betray the trust invested in them by older relatives? There is limited research to address this question but there are some clues beyond the documentation of perpetrator and victim characteristics at the time of exploitation (Jackson & Hafemeister, 2011; Schiamberg & Gans, 1999). Schlomer, Del Giudice, and Ellis (2011) conducted an extensive literature review that revealed little research on human parent-offspring conflict. However, they cited research providing indirect influences. For example, sibling competition for parental resources often results in the neediest child getting more time, attention, and/or material resources, which can be experienced by siblings as favoritism that can lead to family conflict. In some cases, parental fulfillment of their child's needs increases demands. According to attachment theory, the most demanding offspring experience inconsistent caregiver/parent emotional investment (Schlomer et al., 2011). The relationships between parents and children evolve throughout the life course, including when a child becomes an adult and when parents age and begin to lose their independence. Adult children and parents tend to renegotiate a more egalitarian relationship until later life when parents' aging reduces self-sufficiency and increases dependency that prompts a need to again modify the relationships established during early and middle adulthood. The degree of satisfaction with the shift of power and roles renegotiated during these transitions determines the level of intimacy and mutuality that will exist within their relationship (Anderson & Sabatelli, 2011). This suggests that parenting behaviors and outcomes of such renegotiations may increase the risk of later financial exploitation.

The overall research question for this study was: What do family members perceive as factors that contribute to POA agents betraying the trust

bestowed by an older relative resulting in EFE? *Risk factors*, rather than *causes*, is the preferred terminology in elder abuse research, partly because findings result from different methodologies and sampling techniques (Ansello, 1996, as cited in Schiamberg & Gans, 1999). Ultimately findings from this research could improve family members' awareness of potential late-life consequences of earlier family practices. They also could increase understanding by families and professionals of the complexities and significance of family relationships and dynamics that could improve end-of-life planning decisions such as who to appoint POA agents and what requirements and restrictions to include in their documents. This understanding could reduce the likelihood of EFE by family POA agents and thus help to forestall a crisis.

## METHOD

Phenomenology is a qualitative method that is utilized to describe the "common meaning for several individuals of their lived experience" (Creswell, 2013, p. 76). Because there are very limited data available on EFE, this qualitative approach was chosen to explore commonalities that may exist in families where family member POA agents use their power to perpetrate EFE. Qualitative designs are appropriate to explore topics in which there is a paucity of published research (Patten, 2014). To gain deeper understanding and greater trustworthiness of the data, multiple family members within individual family cases were interviewed when possible.

### *Participant Recruitment and Sample*

Because of underreporting, privacy laws, and the sensitivity of EFE, random or stratified samples were not possible. Thus, a convenience sample was recruited by distributing flyers, contacting staff at senior centers, and sharing information about the study at professional conferences. Participants were 18 years old or older with family members aged 60 or older (all residing in the U.S.) who had been exploited by relatives appointed as their POA agents. Although no perpetrators or victims participated, they were not deliberately excluded.

Participants included two men and eleven women. Of the male participants, one was a son

of a victim and the other a son-in-law of a victim. Of the female participants, seven were daughters, one was a granddaughter, and three were stepdaughters. The elder victims described in these experiences included five men and eight women, seven of whom were widowed and one divorced. Eight victims' experiences were unreported to authorities.

### *Data Collection*

The data were collected primarily through interviews by three co-investigators on the research team, using an adaptation of Seidman's (1998) phenomenological approach involving three separate interviews. The first interview focused on significant experiences perceived to be foundational to the later exploitation. More specifically, questions were asked regarding relationships between elders, perpetrators, and family members. The second focused on details related to the exploitation, including who was involved and how it was handled. The third interview focused on the short- and long-term impact on participants, elders, and the families. The analyses for this article were conducted primarily on the first and second interviews because the third interview focused on impact and consequences of the EFE, not antecedents. During each interview, as information about family members and their relationship to one another was shared, some researchers sketched a genogram for each participant to assist in tracking individuals and their relationships to one another during interviews and the data analysis process. A genogram graphically represents at least three generations in a family system (similar to a family tree), but adds markings depicting quality of relationships, dynamics, and patterns within the family (Chrzastowski, 2011).

### *Maintaining Trustworthiness and Credibility*

Steps were taken to ensure trustworthiness and credibility in this study. Triangulation, a commonly used method that was employed in this study, was achieved when multiple family members within one family system participated, which allowed researchers to compare participants' accounts for consistency and comprehensive understanding.

### *Data Analysis*

Prior to analysis of interview transcripts, pseudonyms were assigned to provide anonymity to participants, victims, and other individuals; names of states were retained because of variation in relevant state laws that may have influenced participants' experiences. During the coding process using NVivo 11, co-investigators read each transcript multiple times to increase familiarity with the data. Researchers' interpretations of interview transcripts were informed by field notes and discussions of the data until consensus was achieved on coding of particular excerpts salient to understanding family members' experiences, and grouping of codes into categories and then themes (a peer-debriefing process).

## **RESULTS**

Three subthemes emerged related to perceived risk factors within families for EFE: (a) problematic family relationships, (b) trust issues, and (c) unhealthy power dynamics among family members.

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### *Problematic Family Relationships*

Multiple participants indicated that their families had problematic relationships before the exploitation, typically centering on conflict and enabling behaviors.

### *Unresolved Conflict*

Although conflict is common in families, this research explored specific types of conflict that could contribute to later EFE. Conflict was embedded within many of the participants' family systems. One participant, Rose, described conflict between her stepmother, herself, and her siblings. She described her stepmother, Alyssa, as "always nice to our [stepchildren's] faces or let's say

almost always nice to our faces, but she would get her little digs in. . . . that's just the kind of person she is." A longstanding conflict within [Rose's] family was present in the relationship between her brother, Nestor, and her father over a financial request:

My brother had . . . a little bit of a falling out with my dad several years ago when he asked to borrow some money from my dad and my dad said no. . . . I think . . . when he would bring [his family] over to visit, he didn't feel like they were really as welcomed. So, he really . . . didn't care about having anything to do with my dad or my stepmother.

Although he lived close to his stepmother and father, he did not provide assistance when needed.

In another family, Joyce described the conflict in her family over financial matters, instigated by her aunt who later perpetrated EFE:

[Aunt] Karla is very selfish, like my grandmother was . . . and a classic example of this is the 23 years of my life that my grandfather was there, I don't remember Karla being there much, coming back to visit or anything because she never had enough money to get a plane ticket or to drive back. . . . Aunt Karla has never had a stable job. . . . She's bounced from job to job and she is a pathological liar as far as I'm concerned.

Money was also a focal point of conflict within Shauna's family case, because her brother-in-law, Eddie, who later perpetrated EFE, often boasted about how much money he spent and what he owned. She described a conversation she had with another brother-in-law, Kyle:

Bridget [Shauna's sister] and Kyle did not go to all of the family events or if they came, they would leave early sometimes and it was really because Eddie was so obnoxious to be around, is what Kyle told me, that he was always bragging about how much this cost and he made that and he, he did really nice crafts work and, and made furniture that was reproduction furniture, traditional styles, that kind of thing, he did really good work, but it was everything about him, about stuff and

money and, and it was just overbearing to Kyle. He didn't want to be around it. . . . Eddie had a master's degree and Kyle didn't have a college education and so there was a financial differential and there was an educational difference and. . . it made relationships difficult.

A similar conflict existed in Sandra's family:

My sister started being more and more distancing, and what she actually did the last time [her family stayed with us when her daughter had another operation] was she moved out of our house and took a motel for that last part of the kid's recovery. . . . [S]o this is . . . a decade before we get into this other situation [alleged EFE]. And I don't know what happened at that time, but I believe that my sister began to see that we were a little better settled in terms of our income, we could do a few things that she couldn't do.

As illustrated above, participants often experienced conflict within their family systems prior to the EFE, and much of the conflict was longstanding and centered on perceived differences in financial well-being.

### *Enabling*

Financial exchange patterns within families may contribute to financial dependence that leads to later EFE. In the case of Marilyn's family, her grandparents, Marcus and Sybil, enabled her parents' continuing mismanagement of their family finances. "While my grandparents were still alive . . . they were providing the fall back or the fill in . . . when times were rough . . . my grandfather . . . wrote checks to bail out my parents financially." However, the enabling seemed to lead to an attitude of entitlement. Marilyn's husband, Rod, explained that Marilyn's grandfather created a trust for her mother, Holly, because of her husband, Noah's, failing business ventures. After a conversation with Noah about the trust, Rod explained:

He wanted me to understand that he had done it and how it was intended to flow and what was in his will. Because, in hindsight I

think, he wanted to have the reassurance for himself that he had skipped over a generation and explained it to me because he still didn't trust his son-in-law [Noah] after his death to not . . . violate it. He thought . . . keeping me informed was one more way to prevent that. Marilyn's grandparents, Marcus and Sybil, understood [their son-in-law] Noah's showmanship and bluster. . . . [T]hat motivated them to set up this trust where he couldn't get his hands on it, but [because they made their daughter, Holly, the trustee], he did coerce his wife . . . after their death [to give him trust funds].

The enabling was passed down through three generations, from Marcus and Sybil to Noah and Holly's son, Morris, who lived nearby and was heavily involved in his father's failing business ventures; he also had learned poor financial management behaviors from his father. About the time Noah died, despite his poor financial acumen, Morris became the POA agent for his mother, Holly, but by this time about half of her trust had been withdrawn and invested in the failing businesses and to support Morris. Morris's unemployment and financial mistakes had been enabled by his parents and grandparents for many years.

In Joyce's family, her grandfather also enabled financial problems of her Aunt Karla: "Grandpa was sending her money every month to help her with things . . . it's your child and you want to help them out." Joyce recalled, "She would call and say she needed money and everybody would give her money because she needed help or whatever." In both Marilyn's and Joyce's families, the grandfathers ultimately became victims of EFE by perpetrators they had enabled financially. This theme should not be interpreted as blaming the victims, but as expressions of concern and support for struggling offspring. The offspring chose to exploit.

### *Trust Issues*

Many of the participants described issues regarding trust within their families. Some expressed long-standing mistrust of other family members and described attempts to avoid consequences; others described specific unexpected violations of

trusted family relationships. Similar to Marilyn's grandfather's mistrust in his son-in-law, Susie's family also had trust issues.

Susie described her brother setting up an arrangement with their father by getting an apartment house in his name with a financial interest going to her, which, she said "wasn't necessarily to my advantage, it was to my brother's advantage. But, my brother has been like that all my life so I know not to really trust my brother." Violated trust was explicit in Shauna's family; her mother trusted her middle daughter, Hilary, and husband, Eddie, who later took advantage of her. Shauna also described the effects of this misplaced trust in her sister on herself:

You think somebody you've known . . . their whole life, if they're younger than you are, or somebody you've known like a spouse for a lot of years, you think that they're honest people and you think they care about me or us so they're not going to steal or they're not going to do something that isn't good for us, and you don't want to believe otherwise.

Shauna explained that her father had shown Hilary and her copies of their parents' wills: "Hilary and I would get some extra because we were functioning as [co]powers of attorney . . . and then pretty much the rest of it was supposed to be divided up among the six" [three daughters who each had one child]:

So the grandchildren were going to get a pretty good chunk just like the daughters. Well, Hilary and Eddie didn't like that; they thought that the grandchildren should only get a little bit and that the three children should get a lot. . . . Eventually then the grandchildren would get some from their parents. So they went to Mom and Dad and said, 'We think . . . you should change your will,' . . . Dad said, 'No, it's staying the way it is.' He told me this story and he said, 'They're just greedy, just greedy.'

Shauna's father did not recognize this as an indicator of potential EFE. Had he recognized this as a potential risk factor, the POA agents, Hilary and Shauna, could have been changed at that time,

thus preventing the possibility of Hilary and Eddie acting in various self-serving ways.

### *Unhealthy Power Dynamics Among Family Members*

Several participants indicated inappropriate power use between spouses. According to Marilyn, her mother, Holly, “was trapped in the middle between a coercive husband and the wishes of her deceased parents.” Holly’s husband, Noah, (Marilyn’s father), coerced her to move money from her trust fund to his failing business operations. A similar power dynamic existed in Shauna’s family as she recalled her sister, Hilary, as a child acquiescing to their father:

She was the kind of kid who would always try to please, who would be the good girl who would not question or not stand up for anything . . . so I have a feeling [that] that may [have] been the relationship she had with her husband.

This perceived power differential was modeled by Shauna’s parents:

My mother used to tell me that when she was young, she was pretty feisty, but she couldn’t stand it when my father would pout if she stood up to him when they were first married . . . and he wouldn’t talk to her and things like that, so I guess she resigned herself to just not stand up to him anymore.

This pattern of acquiescence may have made Shauna’s mother vulnerable to Eddie and Hilary’s exploitation when they got Shauna’s mother to approve Eddie as an additional POA agent.

However, several other findings from this study, categorized under other themes, add meaning to this overall risk factor theme. For example, most elders chose the relative who lived closest to manage all of their assets, regardless of their financial competence. Elders tended to favor male relatives as being more financially competent, even when a female relative had specialized education and experiences in financial management. Even if attorney help was sought, elders, POA agents, and other family members often did not understand

their delegated powers and fiduciary responsibilities, which can make elders vulnerable to EFE.

### **DISCUSSION**

This study explored potential family-level risk factors associated with EFE perpetrated by family member POA agents, focusing on potential explanations of why family members betray the trust invested in them by older relatives. Overall, results suggest that older relatives who financially enable younger generations, including their children, may unintentionally foster the sense that it is acceptable to take assets as needed. As indicated by Schlomer et al. (2011), parents’ giving increased attention, time, and resources to needy offspring can increase the child’s perceived needs and create resentment by other family members. Likewise, patterns of acquiescence among spouses may increase the vulnerability of a victim and of a POA agent with a domineering spouse. Older parents may not want to believe their child, whom they love and cared for, would mistreat them. Furthermore, older parents could be in denial of their child’s behavior because they may perceive it as a poor reflection on their parenting.

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This research has the ultimate potential to expand the conceptual framework of Rabiner, O’Keeffe, & Brown (2005) by providing more detail about family relationships beyond the victims and perpetrators that could contribute to elder vulnerability. Their framework, built upon Bronfenbrenner’s (1979) ecological model, acknowledges some problematic relationships at the time of exploitation, but not specific relationships within families prior to the exploitation. However, the Consumer Financial Protection Bureau (2014) noted that conflicts within families have been identified as a potential risk factor for EFE. This is consistent with our findings that

elder vulnerability in families, who have experienced EFE, can be associated with family conflict related to differing levels of financial well-being among relatives and continuing the well-meaning but nonetheless enabling behaviors in response to an adult “child’s” ongoing needs (Schlomer et al., 2011).

Other potential risk factors regarding trust and unhealthy power dynamics within families were discovered. Rabiner et al. (2005) included power and exchange dynamics in their conceptual framework of EFE. The finding in the current study of unhealthy power dynamics echoes the work of Factora (2014), who stated that these dynamics can enable a perpetrator of EFE to isolate the victim, which can mask the crime from other family members.

These preliminary findings expand upon the findings reported by Vincenti, Browne, Betz-Hamilton, and Jasper (2013–2014), which found that victims often lack a thorough understanding of the powers associated with a POA, victims’ desires to help others were often exploited, and justified trust and violated trust were experienced within the family. Long-standing mistrust and violated trust were commonly experienced by participants in this study, and the financial conflicts experienced within these families could be partially explained by the elder’s desire to help others, and then being exploited.

Although this study provides insights into potential risk factors for EFE via a family member POA agent, it has several design limitations. First, a small, non-representative sample was utilized, so the findings have limited generalizability. Second, the credibility of several accounts in this study was weakened by an inability to obtain accounts from multiple family members within the family system. Third, it did not explore potential protective factors in families that have not experienced EFE by a familial POA agent. The comparison could be insightful. In the next phase of this research, the authors will survey and interview family members from families who experienced EFE and compare their experiences to those of other families who have not experienced exploitation in order to better understand risk and protective factors within families that help to predict the

likelihood of EFE. By collecting data from multiple family members per case, we will increase the trustworthiness and credibility of the results to ultimately increase our understanding of the EFE problem. This will lead to remedies and tools to increase overall well-being within the family and to enhance elders’ end-of-life and estate planning.

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