

# *Thank You to our Sponsors:*



# ELDER FINANCIAL ABUSE: PREVENTION AND CURES

## Aaron Connor, Esq., Moderator



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Pierro, Connor &  
Strauss



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TD Wealth



**Liz Loewy**  
EverSafe



**Marci Lobel-  
Esrig**  
SilverBills

# The Problem



Hello. How are you doing? I hope this message finds you please get back to me as soon as you receive this (It's a matter of Urgency). I'm in a terrible situation. I came down here to Manila, Philippines for a program, last night on my way back to my hotel room I was robbed at gunpoint, my wallet and other valuables were stolen off me, leaving my passport and life safe. I will appreciate whatever you can assist me with. Let me know if you can be of help. Thanks, Glenda



# What is Elder Financial Abuse?

The FBI's internet Crime Complaint Center (the IC3") reports the five most frequent types of Internet Abuse are:

- FBI-related Scams
- Identity Theft
- Advance Fee Fraud
- Non-Delivery of Merchandise
- Overpayment Fraud



# How many older Americans are victims of elder abuse?

- Approx. 1 in 10 aged 60+, but one study estimated that only 1 in 14 cases are reported to authorities
- Who are the victims?
  - Disabled persons, persons with cognitive incapacity
  - The lonely and depressed, not just the above

## Who are the abusers of older adults?

- In almost 60% of elder abuse and neglect incidents, the perpetrator is a family member. Two thirds are adult children or spouses.



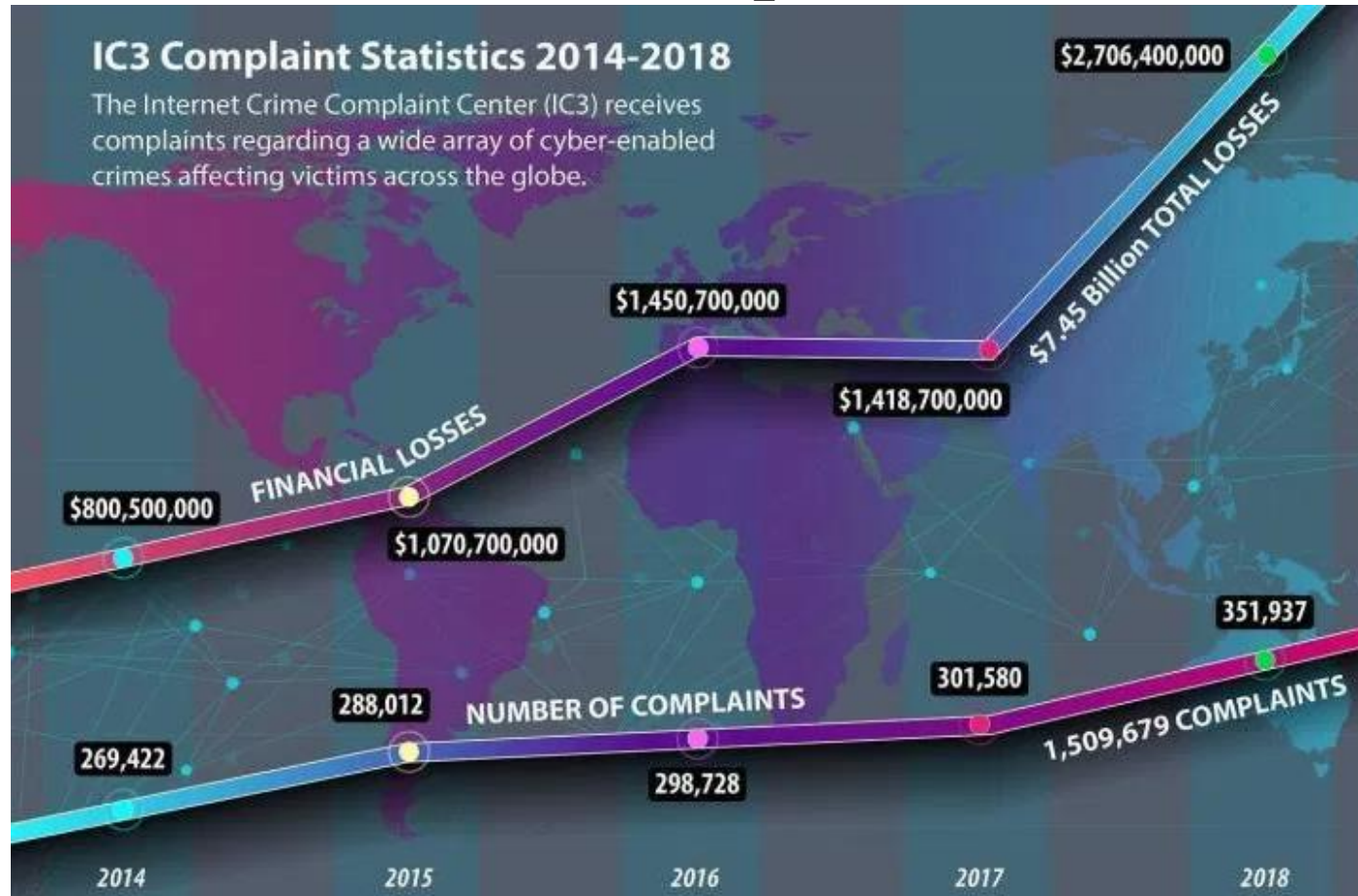
## Effects of abuse?

- 300% higher risk of death compared to those not mistreated.

## Costs - Unclear

- Financial exploitation is self-reported at rates higher than emotional, physical and sexual abuse or neglect
- FBI reported in 2018 that internet theft, fraud and exploitation based on 351,936 complaints totaled \$2.7 billion

# Loss to Consumers for Internet enabled theft, fraud and exploitation



# Signs and Symptoms

- **Sudden changes** in bank account or banking practice, including an unexplained withdrawal of large sums of money by a person accompanying the elder;
- The inclusion of **additional names** on an elder's bank signature card;
- **Unauthorized withdrawal** of the elder's funds using the elder's ATM card;
- Abrupt **changes in a will** or other financial documents;
- **Unexplained disappearance** of funds or valuable possessions;
- **Substandard care** being provided or bills unpaid despite the availability of adequate financial resources;
- Discovery of an elder's **signature being forged** for financial transactions or for the titles of his/her possessions;
- Sudden appearance of **previously uninvolved relatives** claiming their rights to an elder's affairs and possessions



# Role of the Elder Law & Estate Planning Attorney

**Make the concern about financial abuse *part of planning***



- Help the client rethink who the client's fiduciaries should be
- Trusts – today more important part of estate planning
- Should children have complete power to distribute trust principal to themselves (in a Medicaid Asset Protection Trust, income beneficiary can't receive principle)
- Consider giving “distribution decisions” to an independent trustee? (or require 3<sup>rd</sup> party consent)
- Insure the client's CPA or other trusted advisor receive copies of trust statements

# Role of the Elder Law & Estate Planning Attorney

## Power of Attorney

- Carefully discuss the advisability and implications of allowing the agents to act “severally” (independently)
- NY Statute allows for the appointment of a *monitor*. Few clients do this. “Not necessary with my kids”
- Advisors should seek to have the clients consider this safeguard.



# Role of the Elder Law & Estate Planning Attorney

## Statutory Gift Rider

- Have client consider requiring the consent of all agents for gifting when there is more than one agent, particularly if they are making gifts to themselves
- Consider requiring the consent of an *independent person* to large gifts
- Effect of Medicaid changes in NY on keeping people safe at home



# Role of the Elder Law & Estate Planning Attorney

## Guardianship

- Another tool to protect adults from abuse, neglect or exploitation
- Aaron will address guardianships later.





# Future Concerns: Medicaid Home Care Cutbacks



**State budget shortfall led to drastic cuts to Home Care benefits starting Oct. 1, 2020**

- New 30-month lookback period and higher requirements to establish need will result in fewer home care services
- Increase in isolation and loneliness
- Absence of an “on site” human safeguard
- Elimination of home care agency monitoring of aides

**See PCS Webinar “Medicaid Home Care and Cutbacks” – [www.pierrolaw.com](http://www.pierrolaw.com)**

# Future Concerns: Impact of COVID-19

**Government and Not-for-Profit programs for prevention of financial abuse and support of victims will be adversely affected by New York's budget shortfall.**

- **Before the CV-19 pandemic New York's deficit was estimated at \$6.6 billion**
- **As a result of CV-19 it may be \$13.3 billion greater**



*"The lost revenue would diminish the State's ability to provide services to New Yorkers at a time when they need them the most."*

- Robert Mujica, Jr., Director of the Budget



**TD Wealth**

# Protection Against Elder Financial Abuse

Name: Raymond C. Radigan

Title: Head of Private Trust, US Wealth

Date: June 4, 2020

**SECURITIES AND INVESTMENTS**  
NOT FDIC INSURED | NO BANK GUARANTEE | MAY LOSE VALUE



## Methods of Financial Exploitation

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- Theft of money and personal property
- Gaining access to joint bank account
- Stolen ATM cards
- IRS and tax scams
- Sweepstakes and lottery scams
- Scams referring to grandchildren and other close relatives
- Phishing
- Identity theft
- Misuse of power of attorney agreement
- Threat of physical harm
- Fraud
- Becoming romantically involved
- Caregiver gaining access to assets
- Studies indicate that seniors lose between \$2.9 billion (Met Life) and \$36.5 billion (True Link Financial) a year due to financial exploitation



# Combat Elder Abuse and Financial Exploitation

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## Keys to combat elder abuse and financial exploitation

- Avoid isolation
- Family members maintain close ties and make unannounced visits
- Elderly person keep active, stay busy
- Family members carefully screen caretakers

## Financial Institution Protections

- Direct deposit income (retirement, Social Security, SSI, disability)
- Bank offered account alerts to trusted family members for suspected exploitation
- Software closely monitoring accounts for red flags of fraud
- Read-only access for financial caregivers
- May report suspected financial exploitation activity in "good faith" and "with reasonable care"

# Protection Against Financial Exploitation- Power of Attorney

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## **An agent may have one, some or all of the following powers:**

- Conduct banking transactions
- Buy or sell real estate
- Make investment decisions
- Manage property
- Attend to tax or retirement matters
- Make gifts

## **Some potential problems:**

- Most agreements are effective immediately
- Some financial institutions are hesitant to accept certain power of attorney agreements
- Not as broad and as flexible as a revocable trust
- Agent can abuse power

# Protection Against Financial Exploitation- Drafting a Trust

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## **Revocable (or possibly Irrevocable) Trust**

Covering the following topics:

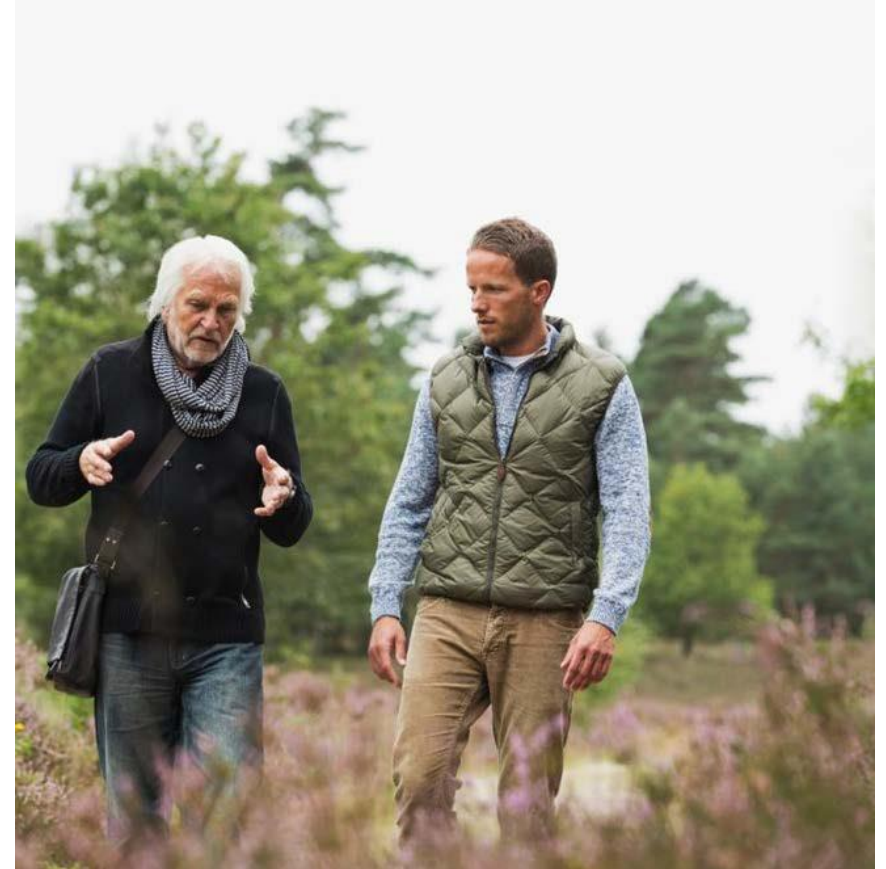
- Designating a trustee, co-trustee or successor trustee who can be trusted and will carry out the terms of the trust agreement
- Asset management
- Broad administrative powers
- Mechanism to remove grantor as trustee if incompetent
- Preference for home care
- Providing care and support
- Retention of counsel or physician
- Address medical records— access and release of information, when appropriate
- Provide for travel, leisure and social activities
- Provide for gifts to family members and charity

## Potential Advantages of a Trust over a Power of Attorney

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The use of a trust facilitates the consolidation and management of assets and may minimize the grantor's vulnerability to financial scams and financial abuse.

If a co-trustee is named, then the co-trustee may obtain access to evidence of financial abuse at an early stage.







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CAP 51908



Protecting a Lifetime of Savings

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Liz Loewy

Co-Founder & COO

***Elder Financial Abuse: Prevention and Cure***

June 4, 2020

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(888) 575-3837 x-702

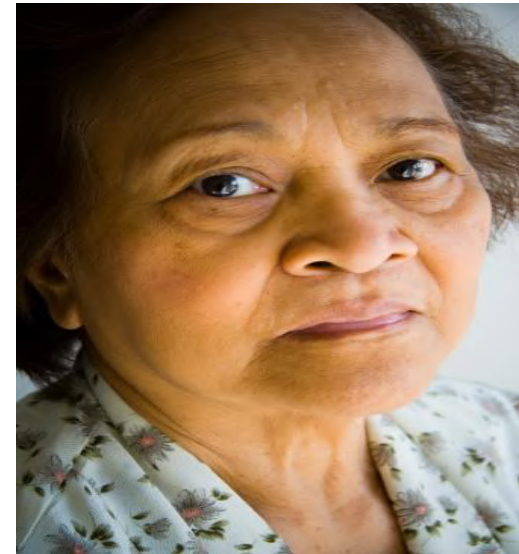
# Our Nation's Hidden Epidemic

## FINANCIAL ABUSE OF VULNERABLE ADULTS

Elder fraud has the lowest survival rate of any form of intentional elder abuse

(Department of Justice; University of Texas)

- victims lose **\$120K**  
(AARP)
- caregivers lose **\$36K**  
(Allianz)
- total annual losses > **\$37B**  
(Bloomberg)



# Elder Financial Abuse

## CHALLENGES:

DIMINISHED CAPACITY

GREED (FAMILY)

CIVIL v CRIMINAL

MISUSE OF POA...





## Signs of Diminished Capacity\*\*\*

- Is client missing appointments &/or calls?
- Does client seem to have trouble communicating?
- Is client repeating himself/herself &/or repeatedly asking the same question?
- Is client failing to recall recent conversations?
- Does client appear to be confused about date &/or time?
- Has previously 'active' client become more passive &/or now exhibiting poor judgment or insight w respect to advice?
- Is client exhibiting mood swings &/or an unkempt appearance?
- Is client having difficulty with basic math &/or managing bills?

\*\*\* IS THIS NEW BEHAVIOR?

(Moye; Marson)

(Loewy; Bailly)



# Challenges: Financial Institutions



**No Visibility  
Across Institutions**



**Static Alerts Unrelated to the  
Historical Behavior of Customer**



**Sharing of Information  
Restricted by Privacy Regulations**

# Senior Safe Act

## PROTECTING OLDER CUSTOMERS

Immunity protection for reporters who serve “as a supervisor or in a compliance or legal function (including a Bank Secrecy Act officer)” and who make the disclosure “in good faith” and “with reasonable care.”

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To qualify for immunity, the institution (or a 3rd party) must train employees on “how to identify and report the suspected exploitation of a citizen internally, and, as appropriate, to government officials or law enforcement authorities, including common signs that indicate the financial exploitation of senior citizens.”

# FINRA Rules Protecting At-Risk Investors

## TEMPORARY HOLD & TRUSTED CONTACT

**Rule 2165** permits a broker to place a temporary hold on disbursements of funds/securities from accounts of specified customers if the broker has a reasonable belief that there is financial exploitation.

The SEC also approved amendments to **FINRA Rule 4512** (Customer Account Information), to *require* members to make reasonable efforts to obtain the name and contact information for a “**trusted contact person**” when opening or updating a customer’s account.

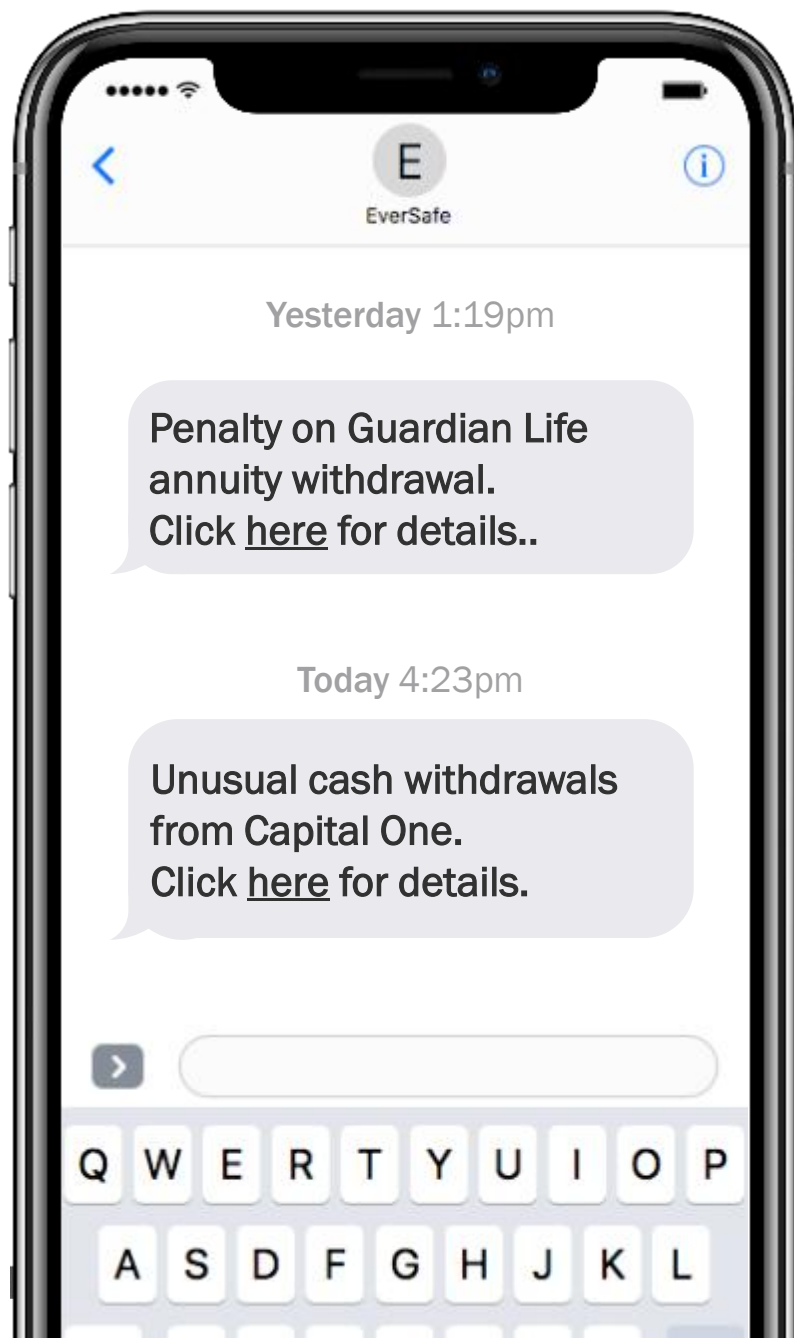
# EVERSAFE

AN 'EXTRA SET OF EYES'



- Analyzes Financial Accounts/Credit Card Transactions/Credit Data/Real Estate
- Machine Learning: “Personal Profile”
- Identifies Suspicious Activity: AI Identifies New Types of Abnormal Activity
- Alerts Members & Designated “Trusted Advocates”
- Expert Remediation &/or Identity Restoration

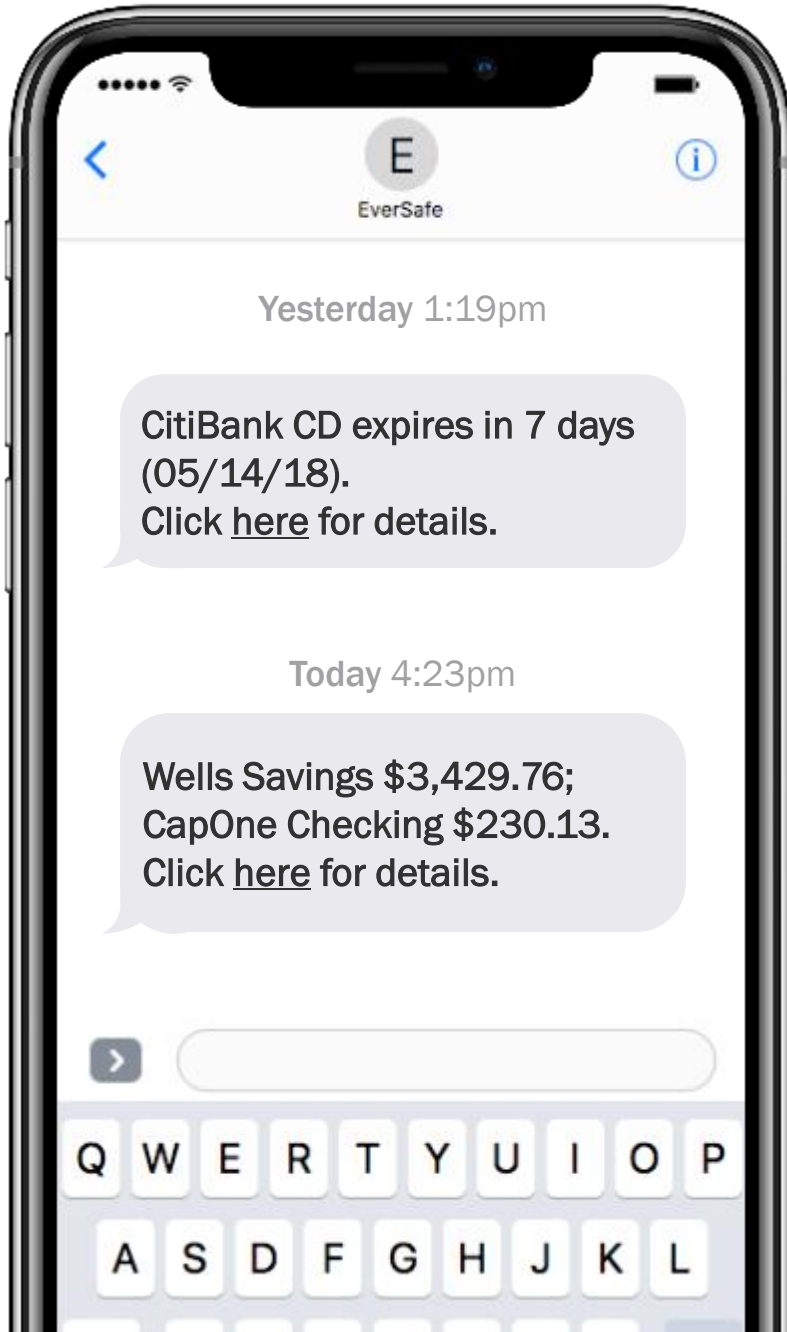




# Analytics Personalized Alerts

## INTELLIGENT MONITORING

- Changes in spending
- Missing deposits
- Unusual wire transfer
- New depository account opened
- Skipped checks
- Abnormal ATM/ACH activity
- Dormant account activity
- Over/under-payment on bill
- Erratic investment activity
- New loan issued
- Annuity penalty/liquidated
- Address change on account



# Staying on Top of Family Finances

## INFORMATION ACROSS ACCOUNTS & INSTITUTIONS

Account Balances  
checking, savings

Interest Rate Changes  
credit cards, home equity

Upcoming Bills  
credit cards, utilities

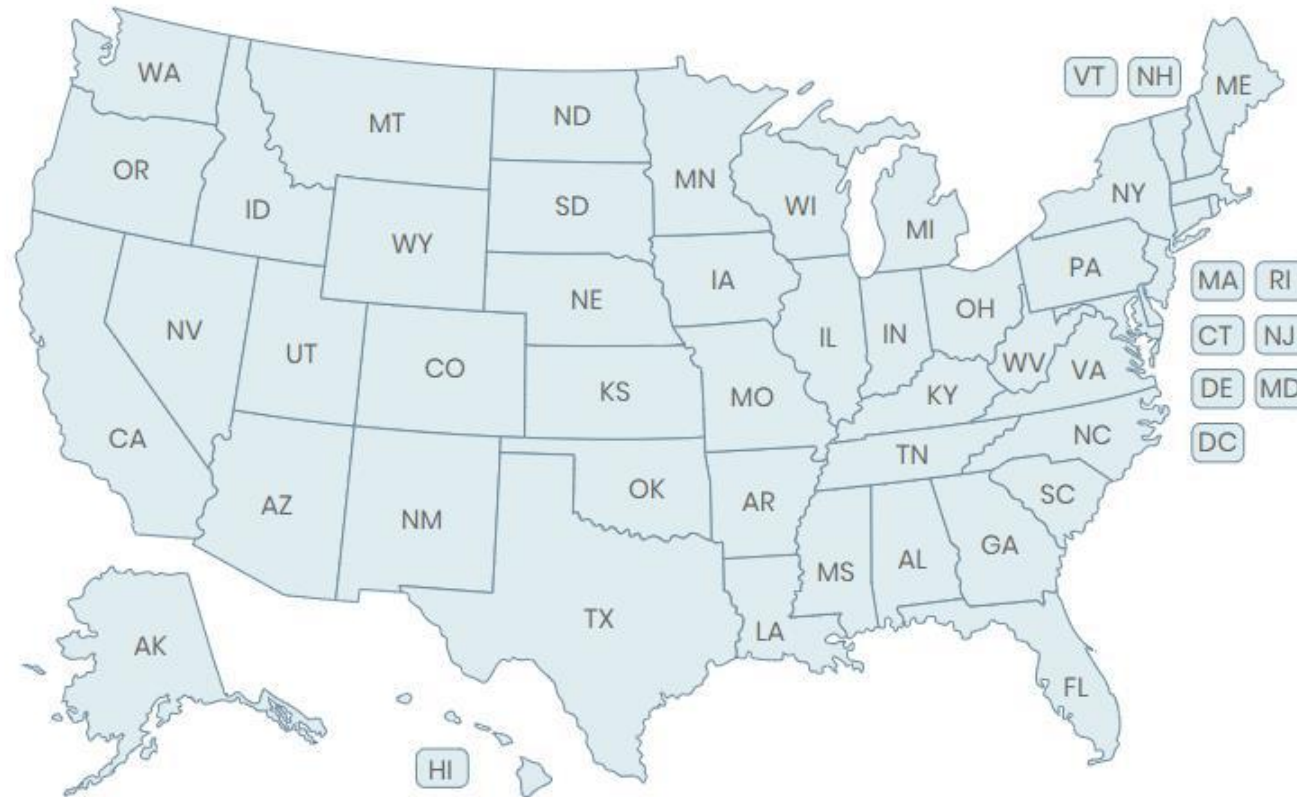
Recurring Charges  
cable, phone

Bank Charges  
late payment, interest

Upcoming Renewals  
magazines, subscriptions

# Reporting Elder Abuse: State Laws Vary

<https://www.eversafe.com/mandatory-reporting/>



# Protecting Clients Against COVID-19-Related Scams

- Educate yourselves, clients & family members about common virus-related scams
- Phishing/Smishing /Social Engineering: warn against opening attachments &/or clicking on links in emails from unfamiliar senders. When in doubt – call a family member or the EverSafe COVID - 19 Hotline (888/728-8850)
- Caution clients to be wary of emails/phone calls that request personal &/or account information (even if ‘governmental’) - no “confirming” information or password “resets”
- Independently verify websites: certificate “errors” may be a warning sign that a site is not legitimate
- Use Technology to monitor financial accounts, credit and real estate & send ALERTS to clients and family members/caregivers as they shelter in place

# EVERSAFE

## Protecting a Lifetime of Savings







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**(888) 575-3837 x-702**

**(917) 485-3572**

# Silver<sup>®</sup> ■ Bills





# The Challenge:

Older Adults May Need Help  
Managing Bills Because They May:



Struggle with  
Manual Dexterity



Face Increasing  
Health Problems



Suffer Visual Acuity  
Challenges



Undergo More  
Hospitalizations or Stays  
in Rehabilitation Facilities



Experience  
Memory Issues

# The Consequences of Not Managing Bills Correctly:



Suspension of  
Vital Services



Eviction or  
Foreclosure



Late Fees



Depletion  
of Savings



Financial  
Exploitation



Guardianship





# The Consequences

## of Untrustworthy Solutions:

Older Americans Seeking Help with Bill Management Are Often Victimized By Those They Turn To For Assistance:

### The Boston Globe

#### Stranger in the house

Most home health aides offer vital care to the frail and aged. But some have other designs, leaving too many clients vulnerable to theft and worse. It is a crisis largely unseen, one which state authorities have done little about.

By Linda Matcham Globe Correspondent, September 15, 2018, 5:57 p.m.

### PROVIDENCE Journal

#### Elder abuse in R.I.: Exploitation puts a high price on friendship

By Jack Brook and Rebecca Ellis / Special to The Journal  
Posted Sep 2, 2018 at 10:57 PM  
Updated Sep 3, 2018 at 1:48 PM

THE STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
OFFICE OF THE ATTORNEY GENERAL

OAG Home  
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For Immediate Release:  
March 13, 2019

**Office of The Attorney General**  
- Gurbir S. Grewal, Attorney General  
**Office of the Insurance Fraud Prosecutor**  
- Tracy M. Thompson, Acting Insurance Fraud Prosecutor

**Pennsylvania Woman Sentenced to Prison for Stealing Nearly \$78,000 from Elderly Relative with Dementia Living in Long-Term Care Facility**



#### Former Webster School PTA President Pleads Guilty to Grand Larceny, Sentenced to up to 3 Years in Prison

July 12, 2017 - 11:19



# Problems With In-Person Bill Management Services:



Potential for Theft of Personal Effects (ie Jewelry)



No Real Time Data in Check Writing



COVID Pandemic



# The Solution:

## SilverBills®



Using proprietary software, SilverBills® receives, scrutinizes and stores clients' bills and ensures that they are paid correctly and on time.



Clients no longer need to open bills, write checks or worry about late fees. Transparent, technology-based. No computer necessary. Customer service focus on older adults.



Clients pay an economical, flat monthly fee.

# The Process:

## Clients Can Reach SilverBills® Through Phone Calls, Mail, Email, Text or Fax



Contact SilverBills, and SilverBills sends an enrollment packet.



Send bills and one voided check to SilverBills in postage prepaid envelope or via email, fax or text.



Thereafter, SilverBills receives bills directly and reviews each bill to make sure the bill is correct.



If bill is correct, SilverBills authorizes vendor to deduct payment from checking account or arrange for another form of payment. If there's a problem, SilverBills works with client and vendor to remedy the problem.



SilverBills sends a monthly statement showing bills have been paid.



Client can relax knowing that bills are paid correctly and on-time.

# Partnership Spotlight:

## NYC Department for the Aging (“DFTA”)



DFTA has signed a contract with SilverBills.

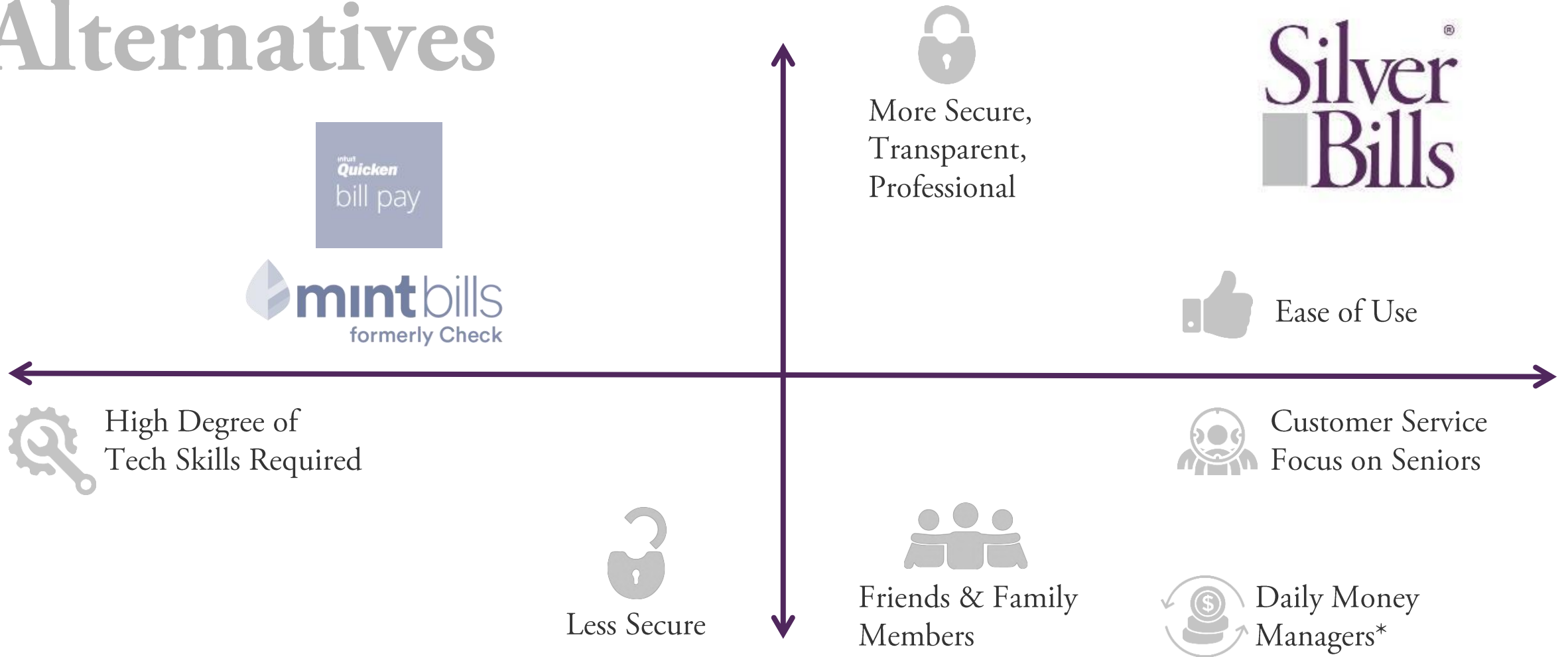


DFTA pays for qualified New York City residents to receive SilverBills services for free. DFTA pays SilverBills **a per client**, per month fee.



**City personnel** perform the enrollment and assist SilverBills account managers in follow-up and monitoring.

# Comparison of Alternatives



\*Daily money managers are lay people without state licensure. They meet in person with clients on a regular basis, open their mail and help them pay bills by writing checks, charging by the hour to do so.



## Monthly Statement

statement for

Account number

Bill close date

Dec 28, 2015

## Balance

Previous balance	\$53.19
Payment received on 12/19	(\$53.19)
Balance forward	\$0.00
Current charges	\$53.50
<b>Total amount due by 01/21/16</b>	<b>\$53.50</b>

EasyPay payment scheduled for 01/18/16 with  
Checking \*\*\*\*4614.

"Change from last month" does not include changes to taxes and fees  
unless associated with changes in service plan, Equipment Installment Plan,  
or Lease.

## Current charges

Line	Amount	Change from last month
(845) 480-4338	\$53.50	<b>\$0.31 ↑</b>
<b>Total</b>	<b>\$53.50</b>	

## Bill highlights

- ① Beginning 1/2/2016 the Regulatory Programs Fee is changing to the Regulatory Programs & Telco Recovery Fee. No change to total amount charged. Details on next page.
- ① Visit [my.t-mobile.com](http://my.t-mobile.com) to pay your bill online, manage your account, get product support, and shop for the latest devices and accessories.

## Questions?

For more information visit [my.t-mobile.com](http://my.t-mobile.com).

# Bills Available for Client Review

# SilverBills®

## Monthly Budget

SilverBills LLC  
P.O. Box 284  
New Rochelle, NY 10802  
888 653 4427



**Budget: October 1, 2019 – October 31, 2019**

**CLIENT:**

John Smith  
35 Candy Lane  
Great Neck, NY 11023

**Income**

Source	Amount
Social Security	\$752.45
American Motors Pension	\$2,468.18
<b>Total</b>	<b>\$3,220.63</b>

**Expense**

Item	Category	Amount
Verizon- Cell	Cellular Phone	\$79.79
Choose Home Care	Medical	\$675.00
Blue Lawn Inc.	Household – Lawn	\$150.00
Robison Oil	Energy – Oil	\$377.45
Con Edison	Energy - Electricity	\$335.53
Great Neck Water & Sewer	Household - Sewer	\$77.82
Verizon – Internet	Household - Internet Service	\$158.35
Allstate – Auto Insurance	Insurance	\$127.92
Allstate – Homeowners Insurance	Insurance	\$131.08
Allstate – Umbrella Insurance	Insurance	\$30.53
Entertainment	Incidental	\$100.00
Food	Incidental	\$300.00
<b>Total</b>		<b>\$2,543.47</b>

**Savings/Investment Deposit**

Apple Bank Savings	\$100.00
TD Ameritrade Mutual Fund Account	\$500.00
<b>Total</b>	<b>\$600.00</b>
<b>Checking Account Excess</b>	<b>\$24.37</b>





# Market

As of 2019 nearly **17 Million** older adults do not use the internet according to Pew Research.

# SilverBills® Partnerships





## Contact Information

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Marci Lobel-Esrig, Esq.  
*Founder & General Counsel*



866 653 4427



[marci@silverbills.com](mailto:marci@silverbills.com)



[www.silverbills.com](http://www.silverbills.com)

# FAILING TO PLAN = COURT

## ■ Guardianship

- Court process to appoint someone to handle the affairs of a person who is incompetent or incapable of administering his/her affairs
- Need typically arises through accident or disease
- Court process is public & highly intrusive

## ■ Not just for the elderly

## ■ Litigation / Costly

## ■ Probate

- Every will must go through Court approval
- If you die without a will, it's intestacy

***“I’ll do it someday”***



# GUARDIANSHIP TO MITIGATE ELDER ABUSE

- Encourage or restrict visitation, communication, interaction
  - Issuance of protective order if abuse, neglect or exploitation by person seeking access has occurred or is likely
  - Accounting of Income + Assets required annually
  - Proactive planning likely to be difficult
- Occasionally, guardians can become perpetrators

# Questions for our Panel?

**VIRTUAL**  
**25<sup>th</sup> Annual Elder Law Forum**

(FREE FOR ALL TO ATTEND!)



- **Fill out the survey immediately following the program**
- **Social Workers: submit evaluations for credit**
- **Thank you for joining us – see you at the**

**26<sup>th</sup> Annual ELF!**