

States Go After Living Trust Scams

By Littman Krooks LLP | 03/28/07

On March 7, 2007, Minnesota's attorney general became the third attorney general to file suit against two California companies run by the same family that allegedly sold inappropriate living trusts and annuities to seniors. Last year, state attorneys general in Pennsylvania and North Carolina filed suit against the same companies. In October 2006, the North Carolina attorney general won an order preventing the companies from selling products in the state while the lawsuit against it is pending.

According to the lawsuits, American Family Legal Plan (AFLP) and Heritage Marketing and Insurance Services, both run by a father and son from California, convinced seniors they were receiving impartial investment advice when in reality the companies were pushing their own products. The lawsuits allege that sales agents convinced seniors to purchase living trusts that were not necessarily in their best interest and were not tailored to their individual needs. After consumers agreed to purchase the living trust plans, the sales agents allegedly persuaded them to exchange or convert their investments for annuities, even if the annuity would have a negative financial impact or tax consequence.

In one case, an 85-year-old Pennsylvania man was allegedly sold a 10-year deferred annuity with his first payout not coming until he turned 95. In North Carolina, according to the attorney general's charges, a sales agent convinced a couple in their seventies to cancel an insurance policy, cash in their investments, and put all of their savings into an annuity that he promised would earn 7 percent interest. The agent didn't tell them the interest rate was guaranteed for only one year and they would face steep penalties if they needed to withdraw their money. Another North Carolina woman cashed in an IRA to purchase an annuity after the sales agent allegedly told her the IRA would run out of money in five years. He allegedly didn't tell her that the annuity would cut her monthly income from \$1,700 to less than \$300.

In recent years, companies running these so-called "trust mills" have been targeted in many states. In 2005, the [Ohio Supreme Court](#) fined a Nevada-based seller of living trusts for engaging in the unlawful practice of law. The company supposedly targeted senior citizens in Ohio regardless of whether the customer actually needed a living trust or an estate plan. In addition, California shut down [one company](#) providing misleading investment advice in 2004 and filed a lawsuit against [another company](#) in 2005.

There are a number of steps you can take to avoid getting scammed, including avoiding high-pressure sales tactics and high-speed sales pitches, not trusting companies that say the AARP is selling or endorsing their product, and making sure a living trust is properly funded. For more on how to avoid living trust scams, [click here](#). In addition, to help older adults and families make better decisions about annuities, the [Healthcare and Elder Law Programs Corporation \(H.E.L.P.\)](#) has created a Web site, [annuitytruth.org](#). The site features H.E.L.P.'s new seven-part "Special Report: Annuities and Older Adults," as well as a list of federal and state agency contacts for making complaints if a person has been sold an annuity in unsuitable circumstances. Of course one of the most important things

you can do is make sure you get estate planning advice from a qualified elder law attorney. [Click here](#) to find a qualified elder law attorney near you.

For more on the Minnesota suit, [click here](#).