

STEPS AN ATTORNEY CAN TAKE UPON DISCOVERING THAT AN OLDER CLIENT HAS BEEN TARGETED BY TELEMARKETING FRAUD GROUPS

(Recommended by Consumer Protection Division, NC Department of Justice)

1. “Try and get the client out of harm’s way.”
2. If fraud artists obtained victim’s funds via wire transfer, contact security department of wire services (e.g., MoneyGram, Western Union; Ph. Number on the wire transfer receipt). Report fraud and request block on future transfers by client. Request return of current transfer if not yet picked up by recipient. Request refund of transfer fees for fraud-induced transfer that has already been completed. (Note: wire services sometimes do the latter on a discretionary basis.)
3. If electronic Automated Clearinghouse (“ACH”) debits have been placed against a victim’s bank account by the fraud group, contact security at victim’s bank, report the fraud, and close the account to prevent further debits. Request charge-back of fraudulent or unauthorized debit. Request fraud affidavit for client to execute. If bank contends the client’s debit authorization was recorded by the telemarketer, request that the bank obtain and share a copy of the verification tape. Often there is no such tape or the recording shows that the charge in question was not, in fact, authorized. If these steps do not resolve the problem, contact merchant bank used by the scam group or its ACH processor to debit your client’s account electronically. This information appears on your client’s bank statement. Report the fraud and request a refund check. National Automated Clearing House Association (NACHA) regulations prohibit most one-time ACH debits induced by unsolicited telemarketing calls, as well as charge-back rates above 2.5%. Merchant banks and ACH processors used by the telemarketers are aware of this. They tend to be responsive when you point these things out in the context of your client’s refund request.
4. If unsigned paper demand drafts (sight drafts) have been presented and paid out of your client’s banking account, notify security at your client’s bank, report fraud, request that the disputed charge be re-credited. Have client close the account to ensure that other sight drafts are not presented against it.
5. Counsel client to change phone numbers and to refrain from giving out new number on sweepstakes entry forms, survey forms, etc.
6. If client appears to be a “repeat victim” who shows a tendency to keep falling for the frauds, consider the following as part of your client counseling:
 - a. Discuss future planning needs, such as advance directives, healthcare power of attorney;
 - b. Recommend an evaluation (including a memory assessment) by geriatrician;
 - c. Recommend power of attorney or joint control over checking account be given to trusted family member;
 - d. Seek permission to report the fraud to local law enforcement and the Telemarketing Fraud Prevention Project of the North Carolina Attorney General, tel. 919-716-6000, 1-877-566-7226 (toll free).
7. If clients report that an older loved one repeatedly has fallen for such scams, consider the following as part of your client counseling:
 - a. Caution the family members to react with calmness, compassion and patience

as they discuss the situation with the older loved one. Explain the age-related conditions that may be at play. Intemperate or impatient reactions by family members may drive the victim further into the arms of the fraud artists.

- b. Recommend an evaluation of the victim by a geriatrician;
- c. Recommend change of the victim's phone number in order to stop the continuance of fraudulent calls;
- d. Seek permission to report the fraud to local law enforcement and the Telemarketing Fraud Prevention Project of the North Carolina Attorney General
- e. Put the victim's telephone number on the National Do Not Call Registry. While telemarketing fraud artists do not respect the registry, registration does cut down on regular telemarketing calls, thereby causing older consumers to be more suspicious of unsolicited calls that come through.
- f. Recommend that a trusted member of the family seek power of attorney or joint control over bank accounts.