

# **SURVEY: LAWYERS READY TO JOIN IN MAJOR PUSH TO SPOT AND REPORT FINANCIAL FRAUD TARGETING OLDER AMERICANS**

*New Partnership Between ABA, Investor Protection Trust, and Investor Protection Institute Follows 2010 Launch of “Elder Investment Fraud and Financial Exploitation” Prevention Program With Health Care Professionals.*

**WASHINGTON, D.C.//July 29, 2014**///Nine out of 10 practicing attorneys surveyed by the Investor Protection Trust (IPT), the Investor Protection Institute (IPI), and the American Bar Association (ABA) are willing to take part in a new campaign to address the estimated 20 percent of older Americans who have been the victims of investment fraud and financial exploitation. The findings of the IPT/IPI/ABA survey of 674 practicing attorneys is available online at <http://www.investorprotection.org>.

In releasing the survey findings, the three groups announced that they are launching the **Elder Investment Fraud and Financial Exploitation (EIFFE) Prevention Program Legal**. The EIFFE Prevention Program Legal will develop, test, and implement a model national continuing legal education (CLE) program to teach lawyers to: (1) recognize clients’ possible vulnerability to EIFFE due to mild cognitive impairment (MCI); (2) identify EIFFE in their clients; and (3) report suspected instances of EIFFE to appropriate authorities. In June 2010, the Investor Protection Trust released a national survey showing that one out five older Americans are victims of financial swindles. (See [http://www.investorprotection.org/downloads/EIFFE\\_Press\\_Release.pdf](http://www.investorprotection.org/downloads/EIFFE_Press_Release.pdf).)

Key findings of the new IPT/IPI/ABA survey include the following:

- More than nine out of 10 attorneys (91.4 percent) say that elder investment fraud and financial exploitation is a “very serious” or “somewhat serious” problem.
- More than one out of three attorneys (34.4 percent) says they are aware that they “are or may be dealing with the victims of elder investment fraud and financial exploitation.”
- Roughly nine out of 10 attorneys (88.6 percent) would be willing to participate in a continuing legal education (CLE) program “about detecting, preventing, and redressing elder investment fraud and financial exploitation.”

Don Blandin, president and CEO, Investor Protection Trust, said: **“We know that a shockingly large number of older Americans are already victims of financial swindles and millions more are in danger of being exploited in such a fashion. Front-line legal professionals who deal everyday with older Americans are ideally positioned to spot the impaired mental capacity that can leave seniors vulnerable to financial abuse. Our new program seeks to inform lawyers about the warning signs of elder investment fraud and financial exploitation. Our goal is to improve the communication among legal professionals, older Americans, adult children and state securities regulators in order to head off financial swindles before the damage is done.”**

Charles Sabatino, director, Commission on Law and Aging, American Bar Association: **“Because lawyers play such a significant role in advising and serving an aging society, especially around financial matters, their role in spotting, preventing, and responding to financial exploitation needs to be as professional and effective as possible. Yet, it is not an area in which many are effectively trained. This project directly benefits the legal profession and the older clients whom they represent.”**

One key issue in understanding the problem of elder financial fraud is the neurobiological basis for many seniors’ vulnerability to financial exploitation and unwise risk taking. Research shows that damage to the orbitofrontal cortex (OFC) of the brain, where executive functioning capacity is located, can make persons with mild cognitive impairment far less risk averse than they were before. (See <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0043647>.)

Dr. Robert Roush, director, Texas Consortium Geriatric Education Center of the Huffington Center on Aging at Baylor College of Medicine, said: **“Normal age-related changes in financial decision making can be exacerbated by neurodegenerative conditions ranging from MCI to some forms of Parkinson’s disease. This is why all professionals with fiduciary responsibilities to older people need to know that these conditions can place their patients or clients at greater risk of financial exploitation than otherwise might be the case.”**

Lori Stiegel, senior attorney and EIFFE Prevention Program Legal project director, Commission on Law and Aging, American Bar Association, said: **“An array of legal practitioners—not just those who specialize in elder law or trust and estates law—may represent clients who are experiencing or are vulnerable to EIFFE. For example, a business lawyer advising a client about selling his company needs to recognize indicia of diminished capacity. A lawyer who is ignorant of EIFFE and fails to recognize its signs may unwittingly participate in victimizing the client or fail to protect the client from harm, and as a result may face professional discipline and liability for malpractice.”**

Other key IPT/IPI/ABA survey findings include the following:

- Nearly all attorneys (96 percent) said that “diminished decision-making capacity makes seniors” very often or somewhat often “more vulnerable to investment fraud and financial exploitation.”
- More than a quarter of attorneys (27.3 percent) say that they deal on a weekly or monthly basis “with the children of older victims of investment fraud and financial exploitation who are either concerned parties seeking legal help for their parents or who are individuals accused of financial exploitation of their elders.”
- More than nine out of 10 attorneys (92.4 percent) said they were “very willing” or “somewhat willing” to get involved when asked: “Assuming it was ethically permissible to do so, how willing would you be to contact a law enforcement agency or securities regulator for help when working with an older client with diminished capacity who is or may be the victim of investment fraud and financial exploitation?”

The EIFFE Prevention Program Legal is a collaboration between the ABA Commission on Law and Aging, IPT, IPI, state securities regulators’ offices, and state bar associations. The CLE program for lawyers follows the launch in 2010 by IPT and other partners of the original EIFFE Prevention Program targeting doctors and other health care professionals. (See [http://www.investorprotection.org/downloads/EIFFE\\_Press\\_Release.pdf](http://www.investorprotection.org/downloads/EIFFE_Press_Release.pdf).) To date, more than 7,800 health care professionals have been provided training in a total of 86 continuing medical education (CME) sessions held in 32 states and the District of Columbia.

## **ABOUT THE GROUPS**

The American Bar Association (ABA) is one of the world’s largest voluntary professional organizations, with nearly 400,000 members and more than 3,500 entities. It is committed to doing what only a national association of attorneys can do: serving its members, improving the legal profession, eliminating bias and enhancing diversity, and advancing the rule of law throughout the United States and around the world. The mission of the ABA Commission on Law and Aging is to strengthen and secure the legal rights, dignity, autonomy, quality of life, and quality of care of elders. It carries out this mission through research, policy development, technical assistance, advocacy, education, and training. The Commission consists of a 15-member interdisciplinary body of experts in aging and law, including lawyers, judges, health and social services professionals, academics, and advocates. For more information, visit <http://www.americanbar.org/aging>.

The Investor Protection Trust is a nonprofit organization devoted to investor education. More than half of all Americans are now invested in the securities markets, making investor education and protection vitally important. Since 1993 the Investor Protection Trust has worked with the states and at the national level to

provide the independent, objective investor education needed by all Americans to make informed investment decisions. The Investor Protection Trust strives to keep all Americans on the right money track. For more information, go to <http://www.investorprotection.org>. Visit IPT on Facebook at <https://www.facebook.com/InvestorProtectionTrust> and on Twitter at @IPT\_Info.

The Investor Protection Institute is an independent nonprofit organization that advances investor protection by conducting and supporting unbiased research and groundbreaking education programs. IPI carries out its mission through investor education, protection and research programs delivered at both the national and grassroots level in collaboration with state securities regulators and other strategic partners. IPI is dedicated to providing innovative investor-protection programs that will make a meaningful difference in the financial lives of Americans in all walks of life and at all levels of sophistication about financial matters. For more information, go to <http://www.protectinvestors.org>.

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**EDITOR'S NOTE:** A streaming audio replay of the news event will be available on the Web at <http://www.investorprotection.org> as of 5 p.m. EDT/4 p.m. CDT on July 29, 2014.