25. Name withheld

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Other comments?

I am writing this submission because I am a strong believer that:

Elder Abuse should be made a crime.

It should be mandatory for Elders and Disabled persons to have an independent Advocate.

It should be a legal requirement for all Solicitors/lawyers to have Elderly/disabled persons medically assessed prior to any changes to their Estate/Wills.

Financial Power of Attorneys should be required to submit 12 monthly income and expense statements.

My story:

“The dark side of a family”

December 2013 I arrived at my father’s home in country Victoria to spend quality time with my 91 year old father, who was legally blind with Macular Degeneration, and our Acquired Brain Injured, disabled, 52 year old brother.

To my horror I found my father malnourished, confused and living in what could only be considered as bordering on filth.  The bread in the pantry was green with mould, the tomatoes on the bench were covered in mould, what little food in the fridge was moldy or out of date.

I spent the next two weeks, cleaning up their home, Dad’s bed was still made up like it was winter, when I went to make the bed the bedding and his pjs were soaking wet.  Every piece of clothing hanging in his wardrobe was dirty and had to be washed.  Dad’s catheter change bench in the bathroom was black with dust.  Our disabled brother’s jeans and socks were held together with safety pins.  Whilst they had home help for 2 hours per week, the home help persons were very limited in what they could do and when I got to vacuuming the house I had to empty the bag 16 times.

All this whilst our sister, who resided only 100 meters from Dad’s home, was being paid by the Australian Tax payers to care for Dad.  Yes she was in receipt of Carer Payment for Dad and Carers Allowance for Dad and our disabled brother.  Carer Payment is paid to persons who are then exempt from ‘looking for work’ on the basis that they spend the equivalent of a normal working day with the person they are caring for.  Dad was lucky to see her for 2 hours per day - usually only when she came over to prepare the evening meal.  She informed me “I don’t get paid to cook and clean for Dad.”  My response was “so you are getting the Carers payment fraudulently.”

Our sister informed me that she was going to “tie Dad to the clothesline if he didn’t stop wandering and that she was going to take him outside and hose him down because he was refusing to shower daily".  But then denied he had dementia or Alzheimers.

It was very clear to me that both Dad and our disabled brother did not have the mental acuity to understand or make decisions to assist them in their daily living requirements or their long term care arrangements.

I have since learnt that a local business person went to the police about Dad’s malnourishment, but there was nothing they could do.  Local employees went to their employers/managers asking the question every time our sister produced Dad’s bank card to pay for meals and purchase goods from the local store - all were told there was nothing they could do as she was the POA.

Upon the death of our mother in 2009, our only sister and a younger brother took it upon themselves to have our father make them his financial and medical powers of attorney.  Unbeknown to me and Dad they had removed our eldest brother as one of the executors to his will.  Dad continually said to me “so J\*\*\* is the executor of my will” but we knew he had been removed after finding copies of wills that they had changed in July 2013.

The younger brother convinced me that he was retiring and moving home to take care of Dad and our disabled brother for the remainder of their lives and that it would be only fitting for him to purchase the house.  I agreed to this purchase on the basis that Dad and our disabled brother were given a life interest in the home - this did not occur. Our eldest brother did not agree to the sale of the home, but they went ahead with it whilst he was away working in the mines and he only found out about the sale when other family were referring to the family home as “M\*\*\* house”!  Just six weeks after purchasing the home he commenced charging Dad and our disabled brother $560 per fortnight to live in the home.  It was only when I was visiting Christmas 2015 that our sister let slip “Our younger brother and I have decided that Dad and our disabled brother have to pay rent” when I queried her on this she said “oh not rent they have to pay one third each of the utilities.”

The younger brother who now owned the house was living and working overseas on a six figure salary, accommodation paid for and yet he believed it was ok to now charge our Dad and disabled brother to live in what was the family home that Dad had owned.  In hindsight Dad would have been in a much better position if he had not sold the home.

I emailed the brother overseas with all my issues in relation to the lack of care of Dad and our disabled brother and the response received back was “I need to work for another 12 months and then I will be in a financial position to return home - just hope Dad can survive until I return.”  He asked me to not take any action against the sister and to give her time to rectify the issues I had raised.  I agreed and said I would return Easter 2014 and if things and not improved I would be taking over.

Upon my return April 2014 nothing had changed - moldy bread, moldy food, house cold and filthy.  I had arrived unexpected and when the sister found I was at Dad’s home she came over and informed me that as she is Dad’s “Legal Guardian” and she says who comes to this house.  Only to return two hours later and state that she was only his POA.

The next two and half years become a nightmare from hell.  The sister goes overseas to visit the younger brother.  Myself and our eldest brother discuss how best we can deal with the situation.  Our eldest brother takes Dad to the bank and Dad requests six months worth of bank statements - it was then we discovered the fortnightly rent of $280, his account had been overdrawn many times (29 times in total over a 12 month period), she was withdrawing every cent of interest from the investment account.

We go to a Solicitor to seek advise and he informs us that they can take no action until our father is medically assessed by a geriatrician as he like us knew Dad did not have the capacity to understand what was happening.  The CT Brain scan and the geriatrician report confirmed that Dad’s dementia was well intrenched and was highly likely evident prior to our mother passing.

So upon Solicitor advise we took our matters to the Victorian Civil Administration Tribunal (VCAT) who stripped them of the financial POA as they had grave concerns over the house being transferred to a POA and the “spending on your father’s accounts needs to be reigned in”.  The sister had been spending 46% of Dad’s pension each fortnight at the local cafe and hotel.

Now, I also understood why Dad kept questioning me on the telephone about why do I have to change my will?  Dad had made a new will in 2010 after our mother died so he couldn’t understand why they wanted to change it again.  Yes they even changed his will in July 2013 and they could not even get Dad’s name correct, his middle name was now the first name of the POA brother?   They also changed our disabled brothers will to make themselves executors and sole beneficiaries to his estate.  All these changes to our father and disabled brothers affairs being made by a Solicitor who was married to Dad’s niece, our cousin.

The two POA’s had given away Dad’s car to the sisters daughter - $2,500 was what they allegedly sold it to her for but the car was worth $4,500, but she never paid for it, kept it registered in Dad’s name to get the pensioner registration discount.  All the while Dad kept saying to us his car was “stolen" from him.  Then the car was involved in a serious accident 20/9/2016 and Dad was sent $25,500 account from an insurance company - the Insurance company was the only ones that listened to me and agreed the account was not my fathers, as by then he was 92 years old, had dementia and was in a nursing home.   Hopefully they pursued the sister and/or her daughter for the money.

Over the next two and half years our disabled brother, eldest brother and myself have had 11 IVO’s served on us - all done in an attempt to stop myself and oldest brother attending Dad’s home, to smear our names and to distract the public from their disgusting abuse of two men incapable of caring for themselves.  I have been physically assaulted by the sister’s partner - who when assaulting me yelled “you’ve lost our inheritance by taking it to the State Trustees”, dad’s home was invaded by our sister’s daughters and son in laws where they not only removed the overseas brothers assets but stripped out anything of value belonging to our Dad.

They arrived at the house with the owner of the local cafe who stated to our disabled brother she had a letter from the police to remove the overseas brothers assets (no such letter existed), they left our disabled brother with two pots for cooking and if our eldest brother and his wife and not arrived we believe to this day there would have been very little left in the home.

Then, 1 March 2015, the overseas brother, who in November 2014 has sold Dad’s home to a third party for $300,000, even though he knows that Dad believes our disabled brother still owns the games room and that he will be coming home to care for him, arrives at Dad’s home with 6 other persons and attempts to throw our disabled brother onto the street, changing locks on doors, packing up our disabled brothers bedroom throwing it all into the carport.

He was unsuccessful, Police arrive, assess the situation and march him and his cohorts off the property.  Fortunately we were able to get a caveat on the home as many years ago the games room extension had been paid for from our disabled brothers compensation funds held by Funds in Court.  He then decides to sell the family home to our disabled brother for the sum of $317,000 as he needs to recoup the costs caused to him by the family.  This is after he has caused major destruction to our disabled brothers trust Unit in another town that caused the FIC to step in and take back control of his affairs from these two, so called trusted members of the family, that had also destroyed Dad’s final few years left on this earth.

If Dad and our disabled brother had been two children that were being financially, physically, psychologically and emotionally abused every department and legal service would have been there to assist them but because they were two grown men we could not get any assistance.  In total it has cost myself and my older brother in excess of $20,000 to protect Dad and our disabled brother, whilst those two committed despicable acts on the two persons they were supposed to care for, and what for, it can only be described as greed.  I believe they were of the opinion it is our inheritance so we won’t wait we will just help ourselves now on the pretext they would care for those whose trust had been placed with them.  The sister was going around town telling people “you wait to J\*\*\* sees what she’s getting, she’s getting nothing cause I am spending it all.”

I contacted the Legal Commission to lodge an official complaint against the Solicitor that has conducted all the legal dealings, sale of the house, changing of the wills only to be told that there was no legal requirement by Solicitors to have medical assessments conducted.   And that all a Solicitor had to say “is he believed a person was competent to make changes then that would stand in a court of law”.  Yet a law enforcement officer who witnessed our Dad’s signature on the sale of the house to the brother informed our eldest brother he believed Dad had know idea what he was signing.

I contacted Senior Rights Victoria but they wouldn’t speak with me they wanted to speak to  Dad, but he was not capable of having a discussion with anyone - all he could say was “There’s trouble in the camp” and “I thought I had made sure I had set things up so our disabled brother would be cared for.”   He could not grasp that the two people he trusted would attempt to throw our disabled brother out of the family home he had lived in for the past 30 years.

So where do people go to get assistance for people like my father and disabled brother?  And it is very evident that this type of abuse is becoming more prevalent as the Australian population ages.

ABC Overnights with Trevor Chappel had an excellent guest speaker, Colleen Cartwright, Director of Cartwright Consulting and Emeritus Professor of Southern Cross University, on 3 March 2016 at 4.16 AM “Advocating for the Elderly” discussing the exact same issues I have raised above and the requirement for Advocates for the Elderly.