I had a call from my father’s neighbour to say he was acting confused and getting lost going back to his caravan van in the next row.

Dad was having constant medical problems and feeling unwell. He had problems with heart palpitations and his legs due to poor circulation. At this time, he was drinking homemade scotch heavily on a daily basis. I would ring in the morning and he often would say he was going to call the ambulance which was very out of character as he would never ask anyone for help. He had a doctor who he was seeing frequently. Several times I went up and took him to hospital.

My brother and I were concerned about Dad being alone in the caravan. I was unable to take him to my house as I had a very excitable, strong dog and was concerned it would knock Dad over or badly scratch him jumping up. As it was coming up to Christmas my brother A said he would take him and we were happy with that as a temporary solution.

During the time Dad was at A’s he had an ACAT assessment which referred several times to memory loss. He achieved a score of 24 on his MMSE which surprised us both. The social worker gave us literature on dementia and a list of homes dad could get into. A and I took Dad for a look at the RSL home and he was happy to go there. A did not go ahead with this move and kept Dad at his house for approximately the next two years in less than desirable, unsafe conditions. He lived in a curtained off section of a screened enclosure although it was a five bedroom house and used a bathroom up a flight of stairs despite mobility problems. I found out later A was charging Dad board.

A looked into Dad’s finances and decided that he should have had more money. He then decided that I must have taken it as he felt Dad favoured me and we had a very big falling out. Dad had moved in with me 35 years ago and built a simple room for himself and a garage to work in on the back of my house. After losing two workmates to early deaths Dad decided to retire early and buy a van on the south coast of New South Wales. I later moved to Queensland (28 years ago) and received a loan from Dad which worked in both our favour. This was repaid in full with interest and documented as a loan. A did not seem to understand that Dad had never had much money even when he was given all the details by our Uncle who was also Dad’s financial advisor. My mother had been very ill for years and my father often worked three jobs to cover her huge medical costs. A organised the sale of Dad’s caravan for $10,000. I told him if he had a problem with anything I had received then he and John could split the money from the van sale. It appears the boys received this money at the time of sale.

 A took Dad to the Public Trustee and had himself appointed Power of Attorney and a new will drawn up. This was basically the same as the first except he removed me as an executor and trustee with my other brother as a substitute executor and trustee. This effectively removed me from any say in Dad’s welfare including his financial situation. I called the Aged Care Commission to question how two men who were both unable to work due to mental health problems were able to have legal and financial responsibility for an elderly man who was cognitively impaired. I was told they would have time to do it as they didn’t have to work.

After approximately 2 years Dad was put in an RSL Care Home. At this time, I was able to become more active in his care. I contacted the home numerous times about aspects of Dad’s care that I wasn’t happy with. The room often smelled of urine and staff were on the whole unfriendly and often hard to locate. Dad was smoking at the time and enjoying a whisky at night and I was frequently having to purchase these or had to contact the home to ask A to do so. One time when A was overseas I checked what contact numbers the home had. A had only provided his own leaving Dad without any family who could be called if needed. The only new clothes he had were purchased by me and a carer told me she bought clothes for Dad the whole time he was there. There were many second hand articles of clothing which were not keeping with the style my father would normally wear.

In the almost five years Dad was a resident at the home I only ran into A once. On this occasion A was shaving Dad’s hair with a pair of clippers and it looked atrocious. A charged Dad’s estate for the purchase of the clippers. My father had a full head of hair which he would always keep well groomed. I arranged with the home to have his hair cut every six weeks by the resident hairdresser. I also organised for Dad to have the paper delivered daily. I had to cut Dad’s nails on many occasions as they were long and split and causing him concern. Some of the other patient’s children and myself began an association for family and friends of the residents and would meet monthly to discuss issues and raise money. Neither brother ever attended a meeting.

Over the course of time Dad had to have both legs amputated. He was taken to the local private hospital as he was a Gold Card veteran and the day of the first operation permission was needed for a blood transfusion. The hospital was unable to contact my brothers but luckily my husband had taken my Aunt to visit Dad and told them they could ring me. Fortunately, I was permitted to provide this permission. The operation and drugs affected dad very badly and he was extremely confused, agitated and argumentative which was completely out of character. Dad was very unsettled the first night and once again the hospital was unable to contact A. I had left my contact details with them and they called me to see if I could help. It took a long time to calm Dad down. He was trying to remove his catheter and pull out drips to try and get out of bed. He was completely disoriented and became abusive even hitting a nurse with a urine bottle. The same evening, as I was leaving the hospital after settling Dad for the night, A turned up for the first time that day in his tennis gear straight from a game. I was called most nights after this to calm Dad.

My father had his second leg amputated soon after and was sent back to the RSL Care home the next morning after the operation. I believe this was because he was too hard to handle. I was very concerned and sent a complaint to the Health Quality and Complaints Commission. I was informed this was acceptable as his doctor would visit him and the staff would care for him. Most of the small number of staff were carers with no medical expertise and one registered nurse covered several wards and wasn’t readily available. My brother was informed by the hospital they were sending Dad back and agreed to this significantly early return.

My father died on the 20th June 2016. I had trouble finding details regarding the funeral so called the funeral director myself. He said A had cancelled two appointments with him so they hadn’t been able to organise it. He had given A another appointment and told him he must be there. I later found out he had cancelled one appointment due to a tradesman (his son-in-law) coming to the house. I went to the meeting at the funeral home to ensure the funeral was conducted properly. My brothers and I spoke amicably during this time They were both unaware of many personal family details that were required and of little assistance. The clothes they brought for Dad to wear were old and unacceptable. I bought new clothes for him. When it came time to collect Dad’s ashes my brother left them at the funeral home. I had to obtain A’s permission to collect them. A informed me there were photos of mine at the home and when I went to collect them I found he had taken his own photos and hadn’t cleaned out the room. The wardrobe was crammed full with second hand clothing much of which had to be destroyed as it was not fit to be given to charity. A carer provided me with garbage bags to dispose of these. I took photos of some which I have attached.

The will was finalised and I received approximately $1,800. I expressed surprise as I thought there may have been around $20,000. I let this go at the time but soon realised it couldn’t be correct. I wrote a polite email to A asking for details of Dad’s financial affairs. This was ignored. After two more emails I received a very terse flat refusal. A contacted my Uncle in tears who then asked me to let it go as A was emotionally unable to cope, which I did. After a while I began to do some investigating and discovered there should have been around $60,000 to $70,000 left in Dad’s account. It was not until after Dad died that I was allowed any information and then it has taken many hours of frustration and rejection to obtain what I have. The RSL home and their doctor were particularly guarded and difficult to deal with.

I tried to get a copy of Dad’s ACAT report which A blocked. I was however able to get all his bank records and some medical records. In the medical records I received a copy of a medical report attached to an application for the Carers Payment which A had submitted to Centrelink. This report declared Dad to have dementia and be cognitively impaired 19 months before the Power of Attorney was attained and the Will being changed. The bank statements showed a constant and systematic draining of Dad’s accounts. Money was spent at numerous coffee shops and restaurants, supermarkets and on overseas holidays. Many of these transactions were conducted twice at the same shop on the same day leading me to believe both brothers were involved. A had allegedly stated he was going to spend all the money so there would be nothing left for me. Dad was charged food and board even though receiving Meals on Wheels. I calculated the theft to be a total of $62,624.13 erring very generously of the side of caution. It was at this stage I saw a solicitor.

A letter was sent to my brother asking for a third of this amount to be paid to me or records and receipts supplied for all transactions relating to Dad’s care. I was asked for an extension of the deadline due to Christmas holiday period which was granted. I was also asked for documentation of the repayment of the loan I received and three documents proving this were provided. Eventually I received a letter from his solicitor alleging Dad had gifted him this money in a conversation heard by my other brother and A’s son. I have since sent them a copy of the medical report stating Dad had dementia and was cognitively impaired at the time proving he could not give informed consent to this gift. The deadline for him to reply is tomorrow – I don’t expect to hear back.

What this all is leading to is that my brother was able to take my father, who was obviously very frail and confused to the Public Trustee and without any documentation from his own doctor or legal council was able to have his will changed and Power of Attorney granted to himself. This was almost two years after he knew categorically Dad had a diagnosis of dementia. When I complained to the Public Trustee I was informed their department conducts a test of 20 questions before allowing this. It is extremely questionable that my father could have successfully completed this. I have grave concerns regarding this process, the Public Trustee’s lack of accountability and the abuse this subsequently allowed to occur. Laws relating to relatives taking elderly people to change wills and be awarded Power of Attorney with such ease need to be addressed.

The law protected my brother who had knowingly and wrongly obtained this power. As my father’s basic needs were met, although not to the standard he deserved, the Aged Care Commission would not listen to my concerns as A was by law, his carer. I have had advise that if I take all the proof I have of this theft to the police they are unlikely to act. I have had to take civil action and pay a solicitor $500 each hour for letters to be written in an endeavor to obtain information regarding the expenditure of Dad’s money and make A pay for his actions. If I wish to take it any further, I need to put down a $10,000 retainer and hire a barrister. This could well be just the beginning of my expense if it entered the court system. I do not have the means to do this. Although he was meant to keep detailed records it appears my brother hasn’t. He has used my father’s bank accounts to pay his own bills, transferred money to his own accounts and accepted “gifts”. He has contravened sections 73, 86 and 88 of the Power of Attorney Act yet who is he accountable to? Unless I continue to pursue it civilly he gets away with it and still there will be no prosecution.

I will now just have to be satisfied with the moral victory in which I have proven what my brother has done and hope this discussion paper will bring about changes which will prevent this abuse occurring to other elderly people in the future.