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GOLDEN OPPORTUNITIES

Shielding Money Clashes With Elders' Free Will

By CHARLES DUHIGG

Eight years ago, when Robert J. Pyle was 73 years old, he had about $500,000 in the bank and owned a house in Northern California worth about $650,000. He was looking forward to a comfortable retirement.

Today, at 81, he has lost everything. Mr. Pyle, a retired aerospace engineer, now lives in his stepdaughter's tiny, mountainside home in a room not much larger than his bed.

By his own admission, Mr. Pyle willingly made every decision that led to his financial problems. He gave away large sums to people he thought were friends, and then, in need of money, sold his house at a deep discount to the first person who offered to buy it.

Even so, he claims in a lawsuit that he should be compensated for some of his losses for a simple reason: he is old, and should not bear the full responsibility for his choices.

"I still make pretty good decisions about most things," said Mr. Pyle, who shows no signs of dementia. "But for others, I guess I'm not as sharp as I was before, and people take advantage of that."

In the last few years, thousands of older Americans like Mr. Pyle have filed suits against companies and salespeople who have promoted dubious offers and schemes. These suits are unusual because the victims typically do not say they were intimidated or lied to, and they concede they freely made what turned out to be unwise decisions.

But because the plaintiffs are older, they argue, they should be less accountable for their mistakes.

These lawsuits raise controversial questions: In the eyes of the law, should the elderly be treated like adolescents, who are not entirely responsible for their poor decisions, but are also barred from making certain choices on their own? Or should they have autonomy, and therefore be accountable for their blunders?

Minors, for instance, can typically cancel a contract without penalty, unless it is co-signed by a parent. But the law also prohibits most teenagers from making major financial decisions.

"Figuring out how to protect senior citizens from victimization, even when it's caused by their own mistakes, is one of the most important issues facing us right now," said Sharon Merriman-Nai of the National Center on Elder Abuse. "If we don't solve this, millions of older people will suddenly be reliant on their families or the government."

"But we also have to figure out how to balance our desire to protect vulnerable seniors with their rights to autonomy," Ms. Merriman-Nai said.

Although national figures are hard to collect, more than 760 civil lawsuits were filed last year in California alone contending elder abuse (most of them claim financial abuse, though some assert other kinds of abuse, including physical). That is an increase of 98 percent from five years earlier, according to a search of court filings. At least a dozen other states show similar trends.

Many of the legal theories at the core of these suits draw on recently passed laws that are often ambiguously worded.

California's elder abuse statute, for instance, does not specify how sales agents should treat older customers. Instead, the law recognizes that the elderly are vulnerable to "abuse, neglect or abandonment," and indicates that an older person has been financially abused when "it is obvious to a reasonable person" that fraud has occurred. These broad laws, argues Mr. Pyle's lawyer, Kathryn A. Stebner, creates special protections for the elderly, even if they are not specifically spelled out.

For instance, Mr. Pyle's suit contends that mortgage brokers and banks defrauded him by helping him take out loans they knew he could not afford, and that the person who bought his house deceived him by paying far less than its market value.

Such theories have yet to be fully tested in court. And because many cases settle before they go to trial, in part because companies often assume juries will side with older victims, there is little precedent for how the laws should be interpreted.

As growing numbers of elderly consumers begin citing such legislation to undo contracts or get refunds, some companies and executives are warning of possible repercussions.

"Either someone has the mental capacity to make a decision, and therefore live with the consequences, or they don't, in which case they shouldn't be managing their own finances," said Terry J. Dyer, president of Jett Financial Services, a defendant in Mr. Pyle's suit. Mr. Dyer said his company, which helped Mr. Pyle refinance his home, did nothing wrong.

"There is no business on earth that can function if its customers can say, 'I'm tired of abiding by this contract, so I want out because I'm old,'" he added.

For his part, Mr. Pyle wants to have it both ways — protection when he makes mistakes, and the right to make all his own decisions.

"It would be complete overkill to take away my independence," Mr. Pyle said. "So I made a few mistakes. Twenty-five-year-olds make mistakes all the time, but they don't lose their right to make decisions. I helped build this country. I deserve more dignity that that."

A Neighbor in Need

Mr. Pyle's life began unraveling in 1999.

His wife of 28 years, LaReta, had died over a year earlier from a long illness. They had met square dancing, and after they married, he embraced her two older children and bought a modest home in a walnut orchard in Campbell, Calif. When he retired in 1989 from Lockheed Martin, they took road trips to dig up interesting rocks and crystals, which they polished in their garage.

But after LaReta died, Mr. Pyle began staying indoors, ignoring the phone and reading the thousands of paperbacks he had stored in two rooms. His stepchildren visited once or twice a month.

He was raking leaves one day when a woman from the block asked him about the nearby church. The woman, Wendy McDonald, was in her mid-40s and said she was raising a 2-year-old on her own, he recalled.

"I was kind of sorry for her since she was a single mother," Mr. Pyle said. "She seemed like she needed a friend."

She stopped by regularly after that, asking advice and telling funny stories. Mr. Pyle had spent years watching his wife die. It felt good to help someone. Slowly, he began emerging from a muffling depression.

"She was like a bright part of a dark day," Mr. Pyle said. "She was friendly, outgoing."

Within a year, with Mr. Pyle's encouragement, Ms. McDonald began cleaning houses in a nearby town. The bus trips were long, so Mr. Pyle drove her to the job.

One day, Mr. Pyle heard a radio advertisement for a square dancing class. He showed up and discovered he had become a precious commodity: an unattached male with strong knees. He began attending a different class every night and hoedowns on most Saturdays.

"Things started getting a lot better then," Mr. Pyle said. "I wasn't quite so lonely anymore."

Descending Into Debt

Ms. McDonald, however, was doing less well. She told him she could not afford her rent. At the time, Mr. Pyle owed only about $150,000 on his house, and could easily make the mortgage payments with his pension and Social Security. So he began giving Ms. McDonald small, regular loans.

A few months later, she called after she was arrested on shoplifting charges — the victim of a friend's scheme, she said — and asked him to bail her out. He bailed out her boyfriend a few months later. Mr. Pyle said they never paid back the $40,000 he lent them for bail bonds. Over the next few years, he co-signed for two cars for Ms. McDonald and her family, according to financial records provided by his family.

As the loans to Ms. McDonald flowed out of Mr. Pyle's accounts, he stopped balancing his checkbook. He had once overseen teams of engineers, but as his memory started fading, he indulged its wanderings when it came to his dwindling bank account.

"When you're young, you spend a lot of time thinking about the future. But by the time you're old, you don't want to have to worry anymore," Mr. Pyle said. "I didn't expect to live this long. I guess I felt like I deserved a break."

According to copies of bank records made available by his family, by the time Ms. McDonald disappeared last year, Mr. Pyle had written checks to her or her creditors for at least $209,000 over six years, and had given her hundreds of thousands of dollars more in cash. Mr. Pyle and his stepdaughter estimate that he gave away more than $650,000 in all. None of it was ever repaid.

"It was like I was hooked," Mr. Pyle said. "The only way to get repaid was to keep giving her money so she could get a job. I felt sorry for her, and then I felt responsible, and by then it was a habit, and I didn't know how to get out of it."

Ms. McDonald, reached on her cellphone at a number found in records provided by Mr. Pyle's family, acknowledged receiving large amounts of money, and said they were in a romantic relationship.

"I was his girlfriend, and he gave me anything I wanted," Ms. McDonald said.

"He was lonely," she said. "He would have done anything I told him."

Mr. Pyle denies any romantic involvement with Ms. McDonald.

Eventually, his stepdaughter, Kandi Knapp, started asking her stepfather if he was having any financial problems. But she felt uneasy at the thought of interrogating him or forcing him to accept help.

"Mom and Dad were always very private, and we wanted to respect that," Mrs. Knapp said. "He told us that everything was fine, that he had lent someone money, but he expected to get it back. He had been saving for so long, it never dawned on us that a problem like this was possible."

Mr. Pyle, at the time, thought he could get out of the hole without telling his family.

"I was too embarrassed to tell them," he said. "And I worried if my kids knew, they would take away my independence. You can't just come out and say, 'By the way, I'm spending money on this gal you've never met, and I don't know how to stop.' What would they think of me?"

In 2004, with his retirement accounts running dry, Mr. Pyle got a new loan on his home for $265,000. After paying fees and earlier debts, he was left with about $100,000. But by then, five years since meeting Ms. McDonald, some of her credit cards were linked to his bank accounts. He had co-signed for lines of credit at Macy's, Nordstrom and a local furniture dealer. He was soon more than $40,000 in debt.

He tried to pare back, but her pleas became hard-edged.

"Sometimes I would tell her no, but then she would say, 'Please help me, just this one time, otherwise my kids can't eat,'" Mr. Pyle said. "I've tried to figure out why I let it go so far, and I really don't know. I felt like a fool."

In late 2005, Mr. Pyle was desperate for money when a mortgage broker from Jett Financial knocked on his door, according to his suit. Mr. Pyle welcomed him and his offer to refinance his home again. He paid more than $33,000 in fees for a $352,000 mortgage. After settling his earlier mortgages and credit card debts, Mr. Pyle was left with only $12,000, according to records.

Almost immediately, he discovered he could not pay the new loan's $2,200 a month cost.

"It's clear he was living beyond his means, and he might not be able to afford this loan," said Mr. Dyer of Jett Financial. "But legally, we don't have a responsibility to tell him this probably isn't going to work out. It's not our obligation to tell them how they should live their lives."

When a lender began threatening foreclosure, Mr. Pyle refinanced a third time, taking on an even more expensive loan.

By then, Ms. McDonald had moved, though Mr. Pyle was still hopeful he would get his money back. When a man called one day and said he had a check for $93,000 to settle Ms. McDonald's debts, that faith seemed justified. The man said if Mr. Pyle just paid $850 to cover a few fees, he would get his payoff. The man never showed up, and Mr. Pyle finally realized his money was gone.

He began asking elderly friends for loans himself.

“He borrowed $500 from me,” said Mike LoBue, a neighbor. “He said he would pay me back in a few days, but he never did. He lied to me.”

A Losing Proposition

By August of last year, with the bank threatening to seize his home again, Mr. Pyle visited a mortgage broker named Alex Arleo to see if he could refinance a fourth time. But lenders said he was too great a risk.

Then, Mr. Arleo suggested that he could buy the house himself. According to court documents, the broker proposed paying the equivalent of $539,000, which was $111,000 below the house's appraised value.

“Selling the house was the only way I could think of to get myself out of this mess,” Mr. Pyle said. He leapt at the deal. After paying off his credit cards, other loans and more than $83,000 in mortgage penalties and costs, Mr. Pyle was left with only $5,583, according to his lawsuit.

Mr. Arleo said he could stay in the house if he paid rent. But Mr. Pyle's monthly payments on Ms. McDonald's credit cards were consuming everything. Within eight months, Mr. Pyle received an eviction notice.

In August, Mr. Pyle abandoned his house, selling almost everything, and moved in with his stepdaughter, Mrs. Knapp, three hours away from his home and square dancing classes. Mrs. Knapp approached the district attorney's office about pressing charges against Ms. McDonald. Authorities said they were investigating, but had not made any decisions.

“I wouldn't have minded if he had spent every dollar vacationing,” Mrs. Knapp said. “But what hurts me is that he lost it for nothing. And it hurts me that, after everything he did for me, I wasn't able to help him when he needed it.”

Mr. Arleo, in an interview, said he was only 19 years old when he bought Mr. Pyle's house with no money down, and that he became a mortgage broker instead of going to college because it offered a quick route to wealth. He said that his youth should excuse his actions.

“I don't know anything about laws or anything like that,” said Mr. Arleo, who is now 20. Mr. Arleo added that Mr. Pyle was presented with all the legally required documents and information when he sold his house.

Mr. Arleo himself soon lost the house to foreclosure. It is now owned by a group of investors who hope to sell it at a profit.

Mr. Pyle, for his part, regrets almost every decision over the last eight years.

"Just a few years ago, I was independent, I had money and my hobbies in the garage," Mr. Pyle said. "Now, I spend most days reading. I guess I'm just kind of waiting for the end."

Elderly Want Self-Reliance

A few miles from Mr. Pyle's former home is the Sons of Norway Nordahl Hall, where he danced with the Square Hoppers Square Dancing Club most Thursday nights.

Club members describe Mr. Pyle as a gentleman with a graceful do-si-do. They had wondered why he had suddenly disappeared, and were dismayed to hear he had lost his house. Between dances, as gray-haired men massaged stiff knees and women adjusted knee-high stockings, they discussed the vulnerabilities of age.

"We come from a generation that is too trusting," said Mark Vincenzini, 76, who knew Mr. Pyle. "We're in great mental shape, but we've seen friends decline, and a lot of them they don't notice things are going downhill until it's too late. There has to be something that protects us from ourselves."

But others disagreed. Some of them worry lawsuits like Mr. Pyle's pose a threat to how the elderly are perceived.

George Tomer, 78 years old and president of the Square Hoppers, said he worried that special protections would set limits on his independence.

"If you look at how seniors are portrayed, it's demeaning," he said. "We travel all over the world. We're as active now as we were in our 40s. But the only old people you see on television are buying adult diapers or scooters. It's frustrating when some salesman treats me like a child."

Many executives say such concerns about limiting independence are valid.

"If the law says that anyone over 65 is suddenly mentally incapacitated, then older people will have trouble buying homes or cars or country club memberships or insurance policies," said Frank Keating, chief executive of the American Council of Life Insurers, a trade organization.

Advocates for the elderly, however, say there has to be some kind of recognition that older consumers are more vulnerable.

"We know that, statistically, seniors are at enormous risk for fraud," said A. Kimberley Dayton of the Center for Elder Justice and Policy at the William Mitchell College of Law in St. Paul. "It's foolish to ignore that. But there's also a huge dilemma in determining when someone is just being eccentric, versus someone who is a victim of undue influence."

Mr. Tomer, as he prepared to join his wife on the dance floor, said that over a lifetime, people like Mr. Pyle were supposed to learn from their mistakes.

"Nowadays, I have a few memory problems — senior moments, I call them — and I know my limitations, what I can and can't do," Mr. Tomer said. "Bob was special, but he was susceptible to scam artists, and that was probably as true when he was young as now."

"Life isn't perfect," he added. "Even when you're old."