

# MIND BENDER

## KEEP AN EYE ON YOUR CLIENTS' COGNITIVE CAPACITIES.

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**D**espite all the debate around retirement planning, there's a lot more to discuss with your aging clients than the freedom of their golden years. A major concern for many advisors and older investors is, what happens when the client's memory starts to fade? "As a client gets older he sometimes suffers from failure of memory and confusion and that creates problems for the client and advisor," says John Poyser, a member of the wealth and succession practice group with Winnipeg law firm Inkster Christie Hughes.

### Heed the Warnings

Many things can suggest client incapacity, notes Poyser. Simple indicators like not showing up for appointments, not understanding assets, or if another family member has stepped in to give instructions on the client's behalf are good examples. Poyser says in the best-case scenarios trusted family members will be able to work with the advisor to effectively manage the client's affairs, but beware the family member who doesn't have his loved one's best interests at heart.

RBC Dominion Securities advisor Mark Stefan relayed this scenario to an audience attending the Knowledge Bureau's Distinguished Advisor Conference last November. The anecdote involves an associate and a woman who was essentially stealing money from her incapacitated mother by taking control of her assets. Recognizing the potential problem, the advisor tried to get the mother to protect her assets from the daughter, and although he was very particular with the client about keeping order, the client kept asking, "What do you want me to do? It's my only daughter."

For clients experiencing this type of manipulation tactic, Stefan suggests relatives sign an agreement that says whatever financial aspect the caregiver (in this case the daughter) takes should be considered a loan.

But it's harder when Mom says, "A verbal promise is fine with me." In fewer than two years the daughter cleaned out nearly all of her mother's money, only leaving a condo, which she was about to sell. Fortunately, a family friend stepped in, stopped the sale, and became the elderly woman's personal guardian, saving her from destitution.

Poyser, who also spoke at the conference, takes a four-pronged approach to such situations. Ask the client and heirs things like, "Have you talked to an accountant? Are there capital gains? Did you talk to a lawyer? He might have something to say about the probate aspects of this," explains Poyser.

Ultimately, it's note-taking that will save you and your company from litigation. "If someone gets sued or if this does turn into a predatory situation, notes are very important in terms of reporting back to the compliance officer," says Poyser.

Buying time is also essential because it gives the advisor a chance to create a plan of action and to bring in that professional help. First, ask the client's advisory team, such as an accountant or lawyer, to help assess capacity issues, and then defer to a supervisor or compliance officer. "Then it's not all on the advisor's shoulders," says Poyser. It also protects you and ensures better results for your client.

But sometimes a client's family member remains hell-bent on manipulating a parent's money. In that case it might be time to tell your client you can't represent him anymore. "Some people will do that because they won't want to say, 'We rode shotgun along with a guy who destroyed himself and his family financially,'" he says. "That's bad press. Even if the advisor's hands are tied, that might not be the way other people see it." Of course, that's a last resort, but it could be better for you and the firm if you let them go before it's too late. <sup>AE</sup>

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