

The Elderlaw Forum: Soliciting money in the name of Jesus

by Professor Michael Myers

Elderly persons with wealth—particularly when widowed—can become prey for professionals who earn a living by soliciting money on behalf of charitable organizations.

The wealthy are accustomed to receiving solicitations from myriad churches, universities, missions, hospitals and charities promising a form of immortality through the donation of monies, farms, art and other assets. When younger they are wary, discriminating in their response; but in old age they may become susceptible.

Professor Michael Myers teaches Elderlaw and Health Care Law & Policy at the USD School of Law. He holds a joint appointment with the School of Business where he teaches Health Finance, Health Economics and Health Law. He combines 16 years at the School of Law with 17 years of field experience as regional counsel for the Mercy Health System, Farmington Hills, Michigan, COO of Mercy Medical Center, Sioux City, Iowa, CEO of Mayo-St. Marys Hospital, Rochester, Minnesota, and CEO of Fairview Riverside Medical Center, Minneapolis. These organizations often compete with the expectations of family members, near and far, who as heirs anticipate the eventual reading of a will and an inherited piece of an estate. But sometimes heirs discover that the family largesse has been diverted elsewhere, to an institution or a cause with no blood ties to the deceased.

“We don’t need the money. All members of our family are comfortable. But we are troubled by the way this man has taken over my uncle’s life,” said a senior legal helpline caller seeking advice on how to intervene in a situation involving possible undue influence.

The case involves her uncle. He amassed substantial wealth as a land developer. He is now 87 and widowed. His wife died four years ago and he lives alone. He has executed a durable power of attorney designating as his agent a former fundraiser for the Church of Christ of Latter-day Saints and Brigham Young University.

Prior to his wife’s death, the uncle talked about establishing an education trust that would guarantee college educations for nieces, nephews and their offspring. Also, he talked about a trust that would offer

capital for one or more family-initiated businesses. “That was our general understanding of his wishes,” said the caller.

I recommended she engage an attorney for the purpose of making a discreet but thorough inquiry into the relationship between the church, the university and the man who holds her uncle’s power of attorney. I suggested that she or other members of the family visit with her uncle to assess his state of mind and objectively look for signs of undue influence.

Professional fundraisers are trained to forge strong personal relationships with potential donors. Genuine friendships can emerge. But friendships born out of organized solicitation are generally shallow, dissipating with the demise of the donor.

(Pro bono legal information and advice is available to persons 55 and older through the USD Senior Legal Helpline, 1-800-747-1895; mmyers@usd.edu).

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