

INQUIRY INTO INQUIRY INTO ELDER ABUSE IN NEW SOUTH WALES

Name: Name suppressed

Date received: 13/02/2016

Partially Confidential

Dear Members,

Attached is my submission, it is rather long and for that I apologise, however, I believe any claims should come with some sort of supporting material, and it is that that makes this a lengthy submission.

I am hoping that you will still allow it in, I have been having major hassles with my personal computer as none of its USB ports are working so I was unable to print any information off, and was off work until today which is the first time I had access to a fully working computer and printer.

As outlined in the attached my recommendations to the committee are:

1. That no solicitor will be able to draw up an Enduring Guardianship, Enduring Power of Attorney or will who has an immediate family member working directly with them, that this needs to be not just unethical but illegal it needs to be demonstrated that the person got independent legal advice first, which also means that solicitor cannot be one known to or recommended by the other.
2. That the Enduring Guardian cannot determine who has access to information or input into the care of the person who is the subject of the Enduring Guardianship if that person is an immediate family member, if they are not to be involved they need to be named in the Enduring Guardianship document so it is clear that it is the wish of the person subject of the Enduring Guardianship.
3. That no immediate family member be prohibited from inspecting records being kept by the Enduring Power of Attorney unless they are specifically named in the Enduring Power of Attorney that they should not have access to these documents
4. That cases challenging these documents no longer be handled by a tribunal but by a court to ensure procedural fairness.

I commend the committee for looking into this issue and look forward to hearing about its recommendations.

Please do contact me if I can be of any further assistance.

Regards,

12th February, 2016

GENERAL PURPOSE STANDING COMMITTEE NO 2

ELDER AND FINANACIAL ABUSE

Dear Honourable Members of the Committee,

I have 3 recommendations to make to this committee which are:

- 1. Make it illegal for a solicitor who has an immediate family member working with the solicitor managing or handling the affairs of the elder person to handle their matters. Independent legal advice free of influence needs to be provided when entering into such important documents.**

My understanding is that it is presently unethical however, that did not stop
of from taking on my father's affairs.

This meant my father was subject to undue influence as he only handed over these matters to on the recommendation of his eldest daughter who had been estranged from her father for 23 years, this was her choice to keep it going for that long, and only contacted her father when she heard he had Alzheimer's in order to take advantage of him.

This is demonstrated by the fact that despite all his medical professionals advising he no longer had capacity to change his will (supportive documentation is attached)
, Enduring Power of Attorney and close personal friend of my sister and my father altered his Will.

There is no evidence to say that my father actually requested the will to be changed, as all the conversations are between the Solicitor and
is a known associate of as she is also a
and was recommended by him and my sister to when chose to change dad's will.

At the time of changing my father's Will , my Eldest sister and the Enduring Guardian were trying to alienate me and my father I gather to stop me from being able to alert him to what was really happening so that I would not stop it. None of the above named people had shown any real care to my father and had actually let him suffer the only time prior to this when he was left solely in their care.

was a friend of Dad's that Dad entrusted due to the business acumen dad had been told by he had and on the support of (my sister and my dad's eldest daughter), (the Enduring Guardian and Dad's ex-partner of 7 years) in meetings I was not allowed to attend at the request of my sister. These were meetings held in the offices of .

This meant dad was misled into the powers he was handing over ie there was a clause inserted into the Enduring Guardianship that allowed the Enduring Guardian to decide who could visit my father. They once attempted (at the time they were in the process of changing the Will) to enact this clause and I was told by the Enduring Guardian I was not allowed to visit my father, at the same time they were telling my father I no longer wanted anything more to do with him.

When in fact he had been returned home, and I could not at that point drive up to visit him as I did not have a car and could not afford to hire one, they had changed his mobile no and put in and land line and refused to give me any of the numbers – just so that it could appear as they were telling dad this I gather they were hoping would motivate him enough to write me out of the Will.

I am not upset at the changes to the Will but the manipulation and unnecessary heart ache my father went through when he should have been able to just enjoy all his friends & family company without being used and manipulated in such a way.

When I asked dad about this clause he said "there is no way they would use that against you" he refused to believe they had (proof is attached) and that he had been assured it could not and would not be used against me.

Furthermore, by allowing this to occur it gave my sister and access to all of dad's financial and other information, when in fact my sister who is a beneficiary in the Will should not have had access to this information.

I was concerned about dad's accounts and did go to the Guardianship Tribunal to try to gain access as I was convinced with the telling such outright lies to dad that things were not kosher. I only found out when they changed the will and that it had not been supported by his Doctors after dad had died and the timing of then changing it.

However, it was a 3 – 1 battle at the Tribunal and understandably with 3 people singing from one songbook and the other being the only one protesting they went with the majority Sadly the Guardianship Tribunal did not look to see if maybe they had another motive for them doing so.

Since dad passed we have now identified that there is a \$190,000 shortfall on the estate but apparently there is no legal avenue that will allow us access to the information without the Executor (who was also the Power of Attorney's) approval (evidence is attached).

We do know _____ has a file that seems like it will identify what happened to this money, however, we are in a situation where the Executor can say yes to granting us access but then _____ can still refuse it. Which as they are all tied up together means we are stopped.

There was no reason for _____ to take on the carriage of my father's matter because even at first blush one has to ask why he did not recommend someone else given;

- a. _____'s offices are at _____ and my father lived at _____
- b. _____ had a potential conflict of interest in having an immediate family member working with him. So problems with confidentiality are likely along with undue influence to a man who was already in an emotionally vulnerable state.
- c. My father wore a hearing aid which only worked occasionally or he forgot to put it in or it wasn't on the right setting which made a phone conversation nearly impossible.
- d. He did not use a computer so you could not email information directly to him nor could he respond.
- e. He had mobility issues which made it impossible for him to travel to _____ on the train without assistance and he refused to have assistance. Consequently he was driving this distance at a time in his life when he would easily lose concentration and get tired putting not only himself at risk but other drivers. I did ask for my sister to drive to dad but she refused.
- f. This arrangement came about when my sister contacted my father advising that the _____ would be able to recover approximately \$500,000 my father had invested with _____ in second mortgages and was not getting the anticipated repayments from.

The missing \$190,000 is part of that money and the file they have refused to provide is the file in relation to these investments. Whilst I admit I would like my portion of this money I am more upset that this means Dad's final wishes have not been adhered to as that money should have been a part of his estate or he would have wanted me to know why I wasn't receiving it.

Documentation also proves that _____ was not able to claim back this money as apparently he was advised by my sister and supported by _____

At the time my sister decided to break her 23 year silence and contact dad in relation this matter I had been working at dad's request to get this money back for him and was in the process of engaging _____ who are specialists in this area and thought they had a very good chance to get all this money back for dad.

The only thing that stopped dad from going with _____ was their request for \$5000 to be deposited into their trust fund account, and that he would have had to hand his power of attorney over to me, it wasn't that it was me he objected to giving his Power of Attorney to he was just cautious about giving it to anyone.

It was then my sister contacted dad and advised that _____ would be able to sort this out for him that he did not need a firm like _____ to do this work and they would be cheaper.

Even if they did not think _____ were suitable surely they could have and should have recommended someone closer to dad.

My sister apparently mis-led my dad in that he expected that as he was not able to get to the offices of _____, could not hear them on the phone, or access the information on the computer and had admitted he did not have capacity to understand these documents that they would be communicating with him through me.

Because the first I knew of _____ having carriage of this matter was when dad told me he had posted some documents to them and asked me to phone _____ to find out what they meant. A request he would not have made had he been told they would not discuss them with me.

My sister absolutely point blank refused to disclose anything to me as "I was not the client" this made the situation impossible for dad to deal with as his only way really of getting information then became it had to be emailed to his brother who lived nearby (and apparently they had no such issues with but then he wasn't a fan of his brother) and then dad would have to collect it from there, as to who explained it to him or how it got explained to him and how he was able to make a decision I have no idea.

I do know dad was incredibly dissatisfied with how it turned out and very upset over it, as not only did _____ not seem to be doing anything about getting this matter sorted out he was now over a barrel.

He did realise that he could risk the relationship with my sister if he now changed his mind or end up in a battle with her neither of which he wanted or was up to handling. Every now and then he would ask for me to take it back but then he would realise what that meant and change his mind.

This meant that in dad's final days, nothing was managed as he had expected or anticipated, they lied and bullied him always knowing that due to the clause in the Enduring Guardianship they had me over a barrel, and once they got him away from his close and very supportive friends and the community at _____ to a nursing home at _____ (via a meeting once again at the request of all 3 I was not allowed to attend) he had to cower to them because if he didn't they would not do anything for him, and make his life even more hellish.

I know this because one day when I was visiting him, he said something like he would like to go for a trip to Tasmania, and I said that we could definitely do that, and he said there is no way he could do that as "_____ owns me, I cannot do a f#\$k**g thing without f#\$k**g _____'s permission, I cannot take a piss without his prior approval" which actually was right I had been hoping that dad was not quite so aware that this was where we were, as I could not imagine how upsetting it would be to discover after having such faith and belief in someone that you put them in such a position of trust to only find you were now at their mercy. This was also said at the time they had dad change his will. I knew dad had changed it and asked him about it because in 2008 he made up a will leaving everything to me and advised me of this at the time, because he knew he had Alzheimer's and wanted to ensure I would protect myself in case such a thing happened and someone caused him to change his will when he no longer had capacity. He thought by telling me about it I would be able to ensure it did not get changed.

So when it did I asked him and he said he had not changed his will "he had just tightened up the wording, he would not change his will".

At the meeting when deciding where he would live they told him that the nursing home they wanted him to move into would allow his dog – which it didn't and she was his closest and most treasured companion. And despite having months to sort out a nursing home and this one being their recommendation and my sister living 5 minutes from it they never took him to visit it prior to relocating him from to the nursing home in . So he never found out till he was moved in that was not part of the deal or that the coffee shop they told him was on site – which he would have loved was not yet operational and had no real plans to be nor did he really fact in the fact that none of his friends would be able to visit him. As they were also elderly and could not do the trip from to . Nor that would not fulfil her promise of having his grandkids and great grandkids visit him – he had never met them when making this decision so didn't realise they were grown women with careers and their own children and family making them too busy for him. He was told lie after lie after lie with no one there to challenge these lies.

Also the fact that I was able to and wanted to move to to look after dad was treated as a "fanciful" notion and made to be discredited so that no one in this meeting would look at it as a serious option. I had always until this point in time been the only one that had looked after dad and originally they had me in that role.

Consequently he was shattered when he realised what he had agreed to and where he found himself and then the realisation hit that without my sister, or he was in a word stuffed as there were no facilities at this nursing home that he enjoyed or liked and now had no friends around him and his dog was taken from him.

They even went so far as to refuse to tell me where dad's dog was so that I could take her with me when I went to visit every Sunday, which was the only day I was allowed to visit him. And the only time they would produce at a visit with dad was after I had nagged them tirelessly to do so as he was completely lost without her.

When dad was in my care and in hospital I would pick her up from whomever was looking after her and take her to the hospital and sit with dad outside in the sun just to ensure he didn't miss her too much as she also missed him.

I did take my dog with me but of course it is not the same, they took glee in knowing that I could not do this for dad – how sick is that? Knowing we were both suffering by it, how could we be doing anything but?

They would not tell me anything about dad's medical condition or what was happening treatment wise and all medical staff were advised by the Enduring Guardian that they could not disclose anything to me and with my sister constantly and the nursing home they were too terrified to do so, I was told that if I wanted to know anything I had to contact the Enduring Guardian and everyone was aware that she would very, very, very rarely disclose anything to me. They did not even tell me he was dying so we did not even get to say our goodbyes even though apparently he had been in this situation for 5 days.

The fact that they were not disclosing information to me upset my dad dreadfully as he could not tell me due to his Alzheimer's/Dementia and had expected that they would be doing that. He would tell me to ask and had instructed them to tell but they of course ignored it.

I had access to one of the best Gerontologist in NSW,
with connections throughout the

Despite knowing this they refused to allow my father to be seen by or to follow up on my requests to get a large sore on his left hand that had been there since 2012 and was causing him enormous pain and discomfort (I have attached a photo) seen to by anyone these people who had the latest diagnostic equipment and treatment options available to them and my father could easily have afforded them.

My dad was an , and all his life looked after his health extremely well he ran, played squash, golf and soccer and a combination of at least two of these nearly every day of his life. When he could chose treatment options for himself he would chose the best he knew of.

However, they chose to ignore all this and in about May, 2014 I received an email from my sister that said "due to constant misdiagnosis it has only just been discovered that the sore on your father's hand is cancerous. The decision has been made to put him into Hospital to have two his thumb and the finger beside it amputated he will be in overnight and then sent back to the nursing home. is the only one allowed to visit him"

The nursing home was nowhere near equipped enough to manage such a serious wound, I have had a mastectomy and know something of the equipment that is required to monitor these wounds and it just did not have the ability to manage the equipment that he should have been hooked up to to monitor let alone the fact that dad did not have the capacity to look after such a wound.

By this time anyway, away from his dog and friends and with me only able to visit on Sunday he had pretty much run out of puff, I really did just watch them suck the life out of him every way they could.

He came out of the operation was returned to the nursing home got sick the next day and died two weeks later.

The tragedy of all of this is I knew this is what would happen.

Knowing my sister had legal expertise and knew more about guardianship procedures than I did and would therefore be able to advise and as well and that this hearing was happening in her backyard where she has a lot of contacts and influence via her involvement with the legal firm and that I suffer under certain circumstances from PTSD and that Dad would need separate legal advice or someone he would listen to I tried to get a solicitor to accompany me to this hearing but absolutely no solicitor would and I can remember when the final solicitor said he wouldn't that I completely broke down and said "I know she is going to kill him, I don't know how or when but I know they will find a way" he asked me on what this was based on and all I could say was knowing her needless to say it was not enough.

There is no way . . . Hospital facilities can be compared to the . . .
Centre and the . . . Centre at . . . so whilst I know it is a moot
point who knows if they had got dad the treatment he should and would have chosen for
himself if he would still be alive today or have lived longer what I do know was no one
looked to see what was really going on.

2. That if an immediate family member is not to be involved in the care, treatment information and conversations that it needs to be included in the Enduring Guardianship.

If an immediate family member is written into an Enduring Guardianship as to not be involved in these areas, then they have a period of time to appeal it and that needs to be to in a court where proper representation and evidence can be given and questions asked and research undertaken.

You have discovered and it is known that with money at stake things can and do turn against those who are entrusting the law, that is because there are loop holes and choices/decisions being made by people who have a vested interest not to look after them whilst shutting out a voice that is trying to get that person the care they should be getting and live the life they know that person wanted. No immediate family voice should be shut out unless the person subject of the guardianship has requested it.

They did not take into consideration how dad had previously lived his life to see if the claims that this was how he now wanted to live could be supported. Dad had lived in _____ and _____ he had never chosen to live in a cold climate area nor had he ever chosen to live away from friends or family. When he moved to _____ it was to be near his brother and his wife, nor near that particular daughter.

7

The only family he had in was my sister someone who he had never had a close relationship with except for the short time it took to get him to hand over his documents to . He didn't know her children as she had kept them from him for the whole of the 23 years they were estranged and they were now grown up ladies with kids and careers of their own so had no interest in dad.

So why on earth did the Guardianship Tribunal think that what these people were saying was the truth? What actual evidence did they have?

In having me locked out of anything to do with Dad's treatment/care it meant they did not know that there were other alternatives available such as I was prepared and able to relocate to look after dad at and wanted to just to ensure he lived out his last days as happy as possible.

Or that people such as were prepared to make time available to see dad, is normally booked up a year in advance.

I was the only person that was constantly in dad's life and we were as close as two peas in a pod as it ended up being just dad and I after my parent's divorce in that split the family up.

 was only his partner for 10 years, moved out of home when he was : around travelled the world then set up home in ! and then and had a busy and family so rarely saw dad after that.

Yet they were the only ones allowed to advise on dad's care because this document gave the power to , and then never did actually act as the Enduring Guardian first she was supporting me as Enduring Guardian/carer which I now realise was because it was coming up to Christmas and wasn't available as she was on holidays in and didn't want to break her holiday to come back and take on this role. Also everything that had to be done at that point was the very stuff that would get you off side with dad ie cleaning out his house and throwing out everything because it was so infected with rat & mice faeces.

So why not have me do it then they could let him take aim at me and look good to him. I don't mind that this had happened it is just that it wasn't to make sure he had a good quality of life.

So after I did that and Christmas was over they changed their minds and decided I was not good looking after dad despite dad telling them how much he loved it and everyone seeing how happy he was as I put him first, and even sending me emails saying what a fantastic job I was doing.

The next day after had returned from holidays and after Christmas I turn into a person that is just out to upset dad and someone that should not have anything told to her whatsoever about his care, so starts acting as Dad's carer now with the support of

Dad had lots of opportunities to make [redacted] his Enduring Guardian never once did he chose to do so, there is nothing to support the claims made that he wanted her as his primary carer. However, there was evidence provided to the Tribunal that dad wanted me in that role, that got ignored or not read.

Why would he want the daughter he had also chosen to be estranged from caring for him?

This wasn't a minor tiff twenty three years is a statement.

So much for dad would have been different if I could have gotten a voice into these discussions, which is why they didn't want it there as dad did listen to me.

3. That it is the same for the Power of Attorney if the person who is appointing the Power of Attorney does not want an immediate family member to have access to there documents that that needs to be written into the Power of Attorney.

If they are written into it then once again they have a certain amount of time to appeal it at court.

At the Guardianship hearing I was asked why I was suspicious that I [redacted] was not handling dad's affairs as dad would want them to be? All I could cite was the fact that they had proven not to be honest people and to not have dad's best interest at heart. How, could I produce evidence that money was not where it should be when I did not have access to the records?

Yet my sister who should not have had access to these records and was a supportive party to [redacted] did due to her relationship with the Solicitor looking after dad's affairs, how is that ensuring that all are on equal footing, yet the tribunal does not consider the impact that may have and of course my sister would deny that she did.

Now we know \$190,000 went somewhere? That could have been stopped if [redacted] had been made to produce the records.

Once again despite the fact that evidence was produced that my father had no issue with me knowing this information when he was in charge of his affairs and did ensure I knew it, the Tribunal supported [redacted] in not allowing me access to this information.

Even though Dad said he had no issue with [redacted] refusing me access evidence had been provided to Tribunal from Dad's doctors saying he did not have the capacity any longer and in reality he should have had a legal representative as dad really did not appreciate the situation that was occurring around him or how exposed it left him.

No one advised either dad or I that due to his demetia he should have had a solicitor and at this point in time as all medical information was kept from me I had no idea dad had dementia when this hearing happened, I only found that after he passed.

How vulnerable did the fact that they were allowed to and did keep that information secret make dad? Who knows what else they told him about these procedures and the

consequences of them, a solicitor would have ensured that he knew that and that I knew that.

Dad was simply under the influence of _____ on the day of the hearing, _____ and his wife collected him the morning of the hearing, took him to buy some books and to his favourite place for a meal and ensured that dad was positively pre-disposed to him.

The day before when I saw dad he was livid and very upset at all three as so many things he asked for and needed for them to provide were not being provided such as one of the footfalls for his wheelchair was missing and had been for weeks on end, I cannot remember the rest but he was determined to have them stop being involved in his care and to get somewhere else where I could look after him.

As you all know when someone has dementia you need more evidence than there words how can you go past the evidence that is available in their life history?

4. Stop this from being a tribunal matter.

I understand it is about affordability, making it friendly and relaxed. My experience of the Tribunal and this was despite them being advised or at least I had advised the Guardianship board that I suffered from PTSD was it was about as friendly as a firing squad.

I had no idea I had to explain why I thought I should be a party to the hearing, or what that meant or what they wanted or I needed to say. That got them off side and made me even more nervous, and being surrounded by two people who had made it very clear how hard they were going to make it for me and knowing they could have dad still in there care afterwards so I was held to ransom by that, and my sister giggling on the phone everytime I stuttered it was a nightmare, and after I got choked up it became impossible for me to do any sort of a vaguely reasonable job of looking after dad's best interest and giving them any valid reason for over turning the decision. And given they had not looked for a reason to overturn either before or during the hearing as it was more than evident they had read very little of the information provided to them and my sister's insight into the procedures etc it was a slam dunk for them to hold on to these powers.

Had it been a court procedure I would have had access to representation as would have dad, all the information provided would have been thoroughly scrutinised as well as dad's life history and ulterior motives investigated.

Unless a Tribunal is going to act more like a court and people have legal representation, the information as thoroughly scrutinesed etc a tribunal is not the place for these matters to be decided.

As there is nowhere to go to get everything last thing you need to know about the laws that are involved in these matters explained to you, and there are a lot of laws involved and how are you meant to have an impact on laws you don't know about or understand in a world that is completely unfamiliar to you and where you have so much on your shoulders.

Yet others (presumably the Tribunal members) do know all this and it is familiar to them how is that going to result in procedural fairness?

Due to the Tribunal supporting _____ and my sister, Dad was left in a miserable situation, with someone he would not have wanted being his primary carer, records were kept from someone that it was provable my father trusted, me and dad did not get the best care he could have for his hand.

I know without a doubt that there is no way _____ Hospital _____ would have let dad stay in hospital for one night after an amputation and who knows how much that may have changed the outcome? He then would have been hooked up to proper equipment with the latest in medicine available to him.

Instead, this man who entrusted that the law would look after him, lived his last days in fear, intimidation and misery separated from those he really loved who loved and adored him to die a far quicker death than maybe he should have and to have his money taken from him and his last wishes ignored where possible.

I have submitted this to the Committee because most people think hell is watching someone you love sick and in pain, no hell is seeing them in that state and not knowing why they because no one has the courage to tell you and not being able to do anything about it even though you could and being kept from then not at their request, watching people break their heart out of self interest and then not be there at the time they most wanted you there – to say goodbye and thanks you were an amazing dad.

The nursing home was banned from calling me so I never knew he was dying he was my only family, as my mother and sister were my abusers, so I knew what they were capable of.

Change it, you ~~can~~.

Regards,