

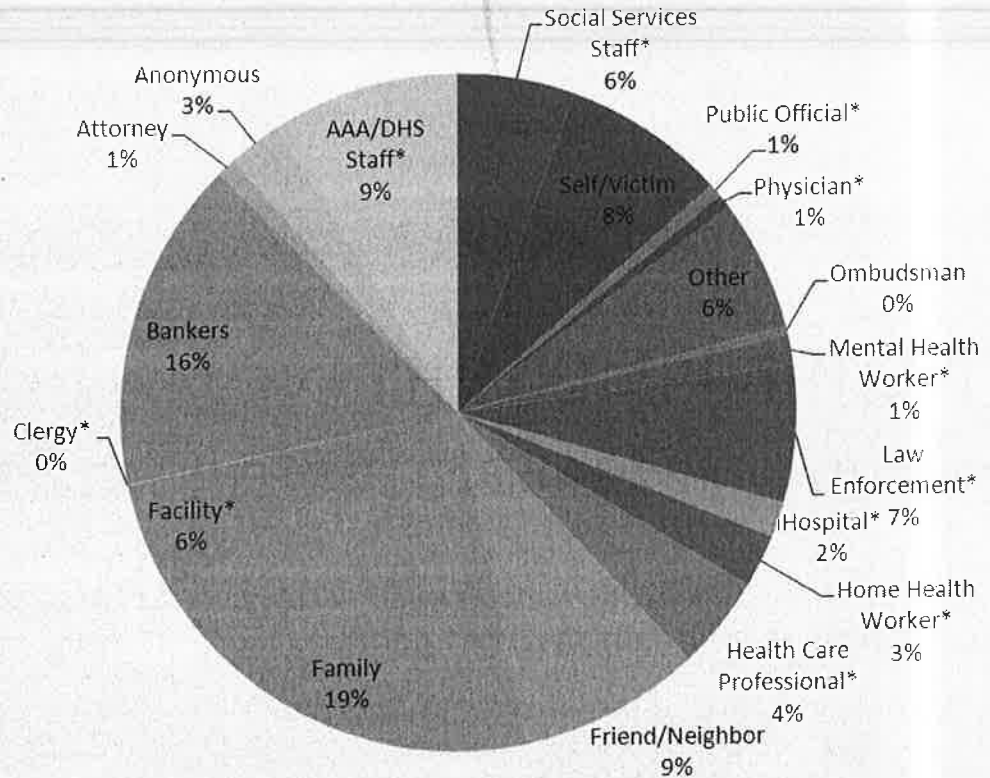
THE COMPLAINANTS

The 2013 OAAPI Financial Exploitation Data Book

Every investigation begins with the concern of a complainant. Without the calls, faxes, e-mails, and other forms of communication received from these individuals, APS would be unable to initiate an investigation or offer protective services.

In Oregon, there are many professionals who are mandated to report suspected elder abuse while acting in their official capacity. These are noted with an asterisk (*) in the chart to the right. However, these were not the most frequent reporters of Financial Abuse in 2013. In fact,

it is those with a non-mandatory duty to report who do so at least 60% of the time.



Data Drill Down:

- Just because something is reported to APS does not mean that it actually occurred or that its occurrence constitutes abuse. When *only substantiated allegations* of abuse are examined, the most frequent reporters are bankers followed by family and law enforcement.
- Victims self report only 5.7% of all substantiated financial exploitation cases, as compared to 15.2% of substantiated verbal abuse cases and 11.3% of substantiated physical abuse cases. Only substantiated neglect is self reported at a lower rate. There could be a number of reasons for this such as not wanting the perpetrator of the abuse to be in trouble, shame at being “scammed”, or an actual lack of awareness that the abuse is occurring.



Steve Duin: Escrow officers turn a blind eye to elder financial abuse

Elmo and Melitta Marquette

Elmo and Melitta Marquette, on the front porch of their 1923 home in SW Portland. *(Steve Duin)*

Steve Duin | The Oregonian/OregonLive By **Steve Duin | The Oregonian/OregonLive**

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When Trish Brazil discovered last May **what had happened to Elmo and Meliitta Marquette** on Southwest Garden Home Road, the Portland realtor called Heidi Gamelgaard at Fidelity National Title.

The escrow officer. By law, the "disinterested, neutral third party" in the room at closing.

Brazil was stunned by the sales price -- one-tenth of the listed real-market value: "I specifically said, 'Didn't it seem strange that two acres were being sold for \$22,000?'"

How did Gamelgaard respond? According to Brazil -- and Gamelgaard denies this -- the escrow officer said, "Trish, it was landlocked."

"When she said that, Brazil continues, "I said, 'No, it's not, Heidi. I'm looking at the statutory warranty deed.'

"And I remember her silence."

From the very start, Gamelgaard's silence has puzzled me.

Yes, the escrow officer is the signature gatherer in these transactions, not the referee. "They have an obligation to act as a neutral third party," says Dean Owens, deputy commissioner at the **Oregon Real Estate Agency**. "It's not to pass judgment on whether you think this is a good deal or a bad deal. They're not experts in real estate and they're not experts in land appraisal."

I also understand that reporting cases of elder financial abuse does not come naturally for title companies. The state's Office of Adult Abuse Preventions and Investigations received 3,400 complaints involving **elder financial exploitation** in 2013, and policy analyst Rebecca Feters recalls few if any from escrow officers.

"I don't know why they feel they can't reach out and make those calls," Feters says. "A lot of other professions that aren't mandatory reporters chose to do so anyway."

But the November 2013 purchase of the Marquettes' two acres by Michael Leland and Sandra Bittler raised a number of red flags beyond the jaw-dropping sales price.

The Marquettes -- Elmo is 86, Meliitta 88 -- had no one looking out for their best interest. They were bickering enough over the \$22,000 figure during the first attempt at closing that Gamelgaard left their home.

The history of the easement -- which is not mentioned in the earnest money agreement -- is complicated, and Elmo insists now he didn't know it was part of the deal. Although the Marquettes and the buyers both maintain there was an agreement not to develop the property while Elmo and Meliitta were still alive, that agreement is found nowhere in the closing papers.

Each of these elements worked to the buyers' advantage. None, apparently, gave Gamelgaard pause, or cause to speak up.

Is that because Bittler selected her to handle escrow, as Bittler has so many times before? Is that because Gamelgaard understood Bittler was in charge, given that it was Bittler, and not Elmo or Meliitta, who called her back to the house for the second closing?

Or is that because escrow officers are paid not to ask the tough questions?

As I noted earlier, Gamelgaard denies talking to Brazil about "details of the sale ... or any other factor that would have affected the price," but otherwise referred all comment to Pat Ihnat, Fidelity's attorney.

And Ihnat insists Gamelgaard performed admirably, carefully walking Elmo and Meliitta through the deal to ensure they were "willing and competent.

"When parties clearly understand what is being presented and signed in a closing appointment," Ihnat says, "escrow officers don't question the structure of the deal or the terms."

In the last two weeks, countless real-estate pros have described the relationship between escrow officers and realtors as the industry's "dirty little secret." Realtors aim for smooth closings, not awkward questions.

"It's not dirty, nor is it a secret," Ihnat says. "All professional relationships are built on professionalism and experience. It does not mean anyone will step outside their role as an escrow officer for repeat business.

"How many transactions have been directed to Heidi by Sandra Bittler? Would I say there have been several or many? Yes. Any real-estate professional will tell you they have a closer or two they prefer to work with."

Thanks to aggressive lobbying at the Legislature, real-estate professionals -- unlike, say, firefighters, marriage counselors and speech pathologists -- are not mandatory reporters of elder abuse.

But as Ihnat described the November closing, Gamelgaard saw nothing at the Marquettes' house that set off alarms: "She said, 'When I went into the house with Sandy, her kids were playing video games. It was obvious they (Bittler and the Marquettes) were friendly.'"

So, Gamelgaard closed the deal. "There's an art to spending an hour with someone, to make sure they're willing and competent," Ihnat says, "and it's a burden we place on a closer."

Further obligations? "We're not evaluating elder abuse and financial abuse in that period of time," Ihnat says. "We don't dig, and we're not supposed to."

"If the regulations require something, we comply with all laws and regulations."

That benefits just about everyone in the room, I suppose, except elderly couples like Elmo and Meliitta. Dean Owens frames the issue for escrow officers rather well:

"There are two pieces of the puzzle: what the law requires them to do and how they feel morally about what they're doing. We don't regulate morals."

-- Steve Duin

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Steve Duin - At long last, justice: Two acres returned to Elmo and Meliitta Marquette

Elmo Marquette talks about the return of his property

Elmo Marquette talks about the settlement announced today in which Michael Leland and Sandra Bittler will return the 2.02 acre lot they had purchased from him and his wife Meliitta for a fraction of its value.

Steve Duin | The Oregonian/OregonLive By Steve Duin | The Oregonian/OregonLive

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on September 05, 2014 at 1:40 PM, updated September 05, 2014 at 6:29 PM

Elmo and Meliitta Marquette were finally made whole Friday, when Michael Leland and Sandra Bittler agreed to return the two-acre property they **purchased from the elderly couple last November** for one-tenth of its real-market value.

In a settlement announced shortly after noon, Leland and Bittler returned the 2.02-acre lot to the Marquettes, along with a valuable easement to the property.

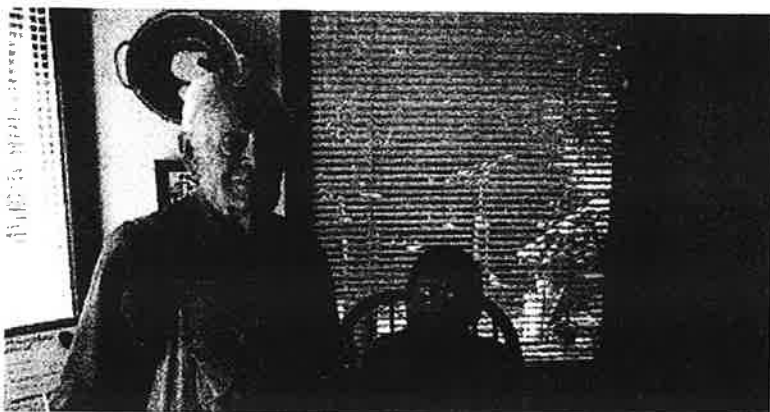
The settlement statement notes:

"The Marquettes will receive the property back, and will keep the \$22,000.00 Leland and Bittler paid them for that property. There will be no restrictions on the Marquettes' ability to develop the property in the future if they so choose.

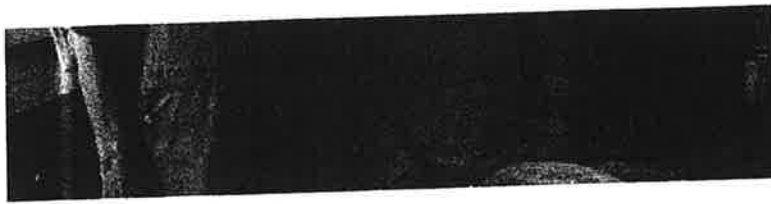
"As the parties have reached an agreement, they ask that their privacy be respected allowing them the opportunity to live as neighbors in peace."

As David Shaw, the Portland attorney hired this week to represent the Marquettes, notes, "It's as if they were put back in the place they were before the transaction happened, plus the \$22,000, and minus whatever they pay me and the heartbreak and heartburn they experienced in the meantime."

That heartache was considerable, once the Marquettes -- Elmo is 86, Meliitta 88 -- checked their bank statements and realized they sold the Southwest Portland real estate for pennies on the dollar.



When Leland -- the president of Mortgage Trust -- and Bittler first moved into the Garden Home neighborhood seven years ago, they told the Marquettes they were interested in buying the two-acre meadow so that, as Leland later put it, "our kids would get a larger backyard in which to play."



Elmo and Meliitta Marquette

Steve Duin

Frustrated with his latest tax bill on the property, Elmo Marquette approached several neighbors last November, offering to sell the lot. One neighbor, Wayne Shoultz, rejected a \$5,000 offer, telling Elmo that he was clearly confused about the assessed value of the lot.

Leland and Bittler took a different approach, drawing up an earnest money agreement for \$22,000.

"If we were the ones pursuing them, that's one thing," Leland said last week. "But that was never the case.

"It's not like we were sneaking something by these people ... I do feel comfortable they understood the sales price. Is it worth more than \$20,000? Absolutely. We said, 'It's worth a heck of a lot more than that.' (But) their main goal was accomplished. Nothing is going to get built on that property while they are alive."

The Marquettes were unrepresented by an attorney or realtor at closing, signing the papers at their kitchen table. The final contract included a right-of-way into the property that is not mentioned in the earnest-money agreement.

Because the \$22,000 was transferred directly to the Marquettes' bank account, the couple did not realize until April that they had so under-valued the property.

"I didn't read it carefully. I should have, but I didn't. I thought it was \$220,000," Meliitta said last week. As Elmo's son, Tom Marquette, observed Friday, "Dad was embarrassed he made the mistake, and wasn't going to admit he knew he sold it for \$22,000 rather than \$220,000. He's just not thinking clearly and consistently."

That's sometimes a problem with the elderly. And that's why Ellen Klem, the director of consumer outreach and education at Oregon's Department of Justice, says, "People are taken advantage of every single day. The latest stat we have, nationally, is that for every case of financial exploitation we hear about, 43 others go unreported."

When the details of the transaction became public, the reaction was powerful, particularly among the professionals in the real-estate community.

Bittler was promptly **terminated at Oregon First** because -- Mickey J. Lindsay, the vice president and managing principal broker said -- she did not disclose the transaction to her employers, as required by Oregon law.

Leland and Bittler spent several days mounting a tepid defense of the deal, in which they secured two acres that were probably worth far more than the \$220,000 listed as the real-market value by Multnomah County.

But once the **Department of Justice announced** it would examine the transaction, Leland and Bittler hired Beaverton attorney Damon Henrie, and Henrie swiftly negotiated the settlement deal with Shaw.

"Well, it's over, I hope," Elmo Marquette said. "To have it done is good."

-- Steve Duin

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