

## SENATE BILL 95

Chair and House Judiciary Committee:

My name is Victoria Blachly and I am a trust and estate litigator, with 20 years' experience, licensed in Washington and Oregon. I represent individual trustees, corporate trustees, beneficiaries, and personal representatives in often difficult and challenging cases including trust and estate litigation, will contests, trust disputes, undue influence, capacity cases, claims of fiduciary breach, financial elder abuse cases, and contested guardianship and conservatorship cases. I am an Oregon Super Lawyer for Trust and Estate Litigation, an award available to 5% of Oregon attorneys who have attained a high-degree of peer recognition and professional achievement.

I am also a Commissioner for the Oregon Commission on Senior Services, which supports SB 95, and I have also recently been appointed by our Governor to the Oregon Uniform Laws Commission.

I have a scheduling conflict that prohibits me from testifying personally on May 17, 2017, but I appreciate your consideration of this written submission. I am in support of Senate Bill 95, as amended, which requires certain securities professionals to report suspected financial exploitation of elderly, disabled or vulnerable Oregonians. It grants them options to freeze accounts and report concerns to the appropriate authorities.

In my law practice, I regularly come across difficult stories, where horrible people take advantage of some of our most vulnerable citizens. And these stories often involve greedy family members hiding behind documents that may appear legal on their face.

Indeed, two of my former clients shared part of their story and testified in the Senate, in favor of SB 95 (*See Prior Submitted Testimony of David Gillis and his wife, Charlie White.*) Mr. Gillis and Mrs. White saw firsthand how quickly a family member can try to take control of an aging family member, for inappropriate goals. Specifically, their case involved their beloved Aunt and one of the nephews, who took deliberate measures to take control of her life, over her objections, and sought to isolate her and control all of her finances. Fortunately, she had a long-time relationship with an investment advisor that was helpful in putting the brakes on his plan – long enough for lawyers to be retained and the entire project shut down cold. A subsequent hearing resulting in a detailed order that affirmed the Bad Actor had no good intentions and the Aunt, and her considerable resources, were protected.

But it is an incredibly difficult thing for only family to keep their eyes peeled at all times for such nefarious behavior, such that the efforts of bank tellers, investment advisors, or anyone else are necessary to protect vulnerable victims.

There are many excellent financial advisors that want to protect their clients from preying vultures, but they can also find their hands to be tied if a Power of Attorney or other seemingly

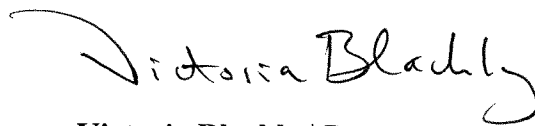
appropriately signed legal document is handed to them. What Senate Bill 95 does is to give those excellent advisors a “legal time out” to stall the process so that the appropriate authorities can become involved. Many financial institutions have already incorporated employee training, to look for the signs of financial or physical elder abuse, and no doubt that training would continue or even increase with the passage of SB 95. This training and SB 95 level the playing field so that certain securities professionals can all have the legal opportunity to protect their clients. It is appropriate and it is necessary.

In my practice, I will say that it truly does take a village to keep our vulnerable Oregonians safe, and I believe SB 95 is another tool to help accomplish that goal. Through my securities law colleagues at my firm, I also understand this issue – keeping elders safe – has been on the forefront of NASAA (North American Securities Administrators Association) and FINRA (Financial Industry Regulatory Authority) and proposals for uniform legislation have been making their way around the United States. Indeed, I also understand SB 95 is quite consistent with national recommendations.

Oregon has also been progressive in identifying mandatory reporters for elder abuse, adding new categories on a fairly regular basis. While neither investment advisers, nor bankers, are on that list (ORS 125.050(9)) and I strongly believe they SHOULD be on that list, SB 95 provides a good start. It addresses the problem when an investment adviser is given a document that appears to be legal, like a Power of Attorney or Trust, but if the investment adviser knows or should know that capacity or undue influence is involved, SB 95 gives them the ability to take action contrary to what the fiduciary is telling them, for the protection of the vulnerable person.

I urge you to move this legislation forward to enactment.

Respectfully submitted,



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