

POWER OF ATTORNEY FRAUD

The Commercial Crime and Fraud Sections with the Regina Police Service, Saskatoon Police Service, Saskatchewan Financial Services Commission and the RCMP have joined forces to promote March as Fraud Awareness Month to Saskatchewan residents and consumers.

Public education and awareness is key in preventing and reducing the number of victims of fraud. During the second week of Fraud Awareness Month, the fraudulent activity to be profiled is Power of Attorney Fraud.

With this article focusing on fraud awareness and education, the question often asked is “How common is Power of Attorney fraud?” Exact numbers are not known, but it is suspected that like most frauds, particularly the ones affecting our aging population, the actual occurrences are higher than what has been reported to the police. Our goal is to provide some basic information about a Power of Attorney (POA) and help the residents of Saskatchewan protect themselves against the threat of Power of Attorney Fraud.

Many people may think and believe that a “Power of Attorney” is a term that only applies to elderly individuals. In reality any citizen in Saskatchewan, and Canada, can elect another person to be their POA at any time. In most cases, the POA does not act on that power until such a time as the person granting the Power of Attorney no longer has the capacity to competently make sound personal and financial decisions.

“Why do I need a Power of Attorney?” This may be the question you are asking yourself as you read this article. This is important as the person you designate to be your POA may be making personal and financial decisions when you are unable to do so. It is vital that you choose someone who you believe will perform these duties in your best interests. Quite often, one POA will be named that looks after both your personal affairs and also your property or financial affairs; however you can designate a POA as your personal authority and a separate POA to be your property authority.

There are several ways to protect yourself from becoming a victim of Power of Attorney fraud. The following are some suggestions that may help before making this very important decision:

- Talk to the people you think you may be considering for this important role. Ask if they are interested in performing these duties. Ensure that they understand what you want.
- Talk to the offices of the Public Guardian and Trustee. They can provide advice and guidance on the roles and responsibilities of a POA.
- Put your POA in place when you don't need it and are still competent to make decisions. This allows you to discuss with your POA what your expectations are and to set out any conditions that you feel are important as to when your POA will act on your behalf.
- Choose someone who can ask for an accounting from your POA to ensure that your best interests are being looked after.
- Seek direction and guidance from a legal representative such as a lawyer.
- Don't be afraid to revoke a POA if you have any concerns about the person you have originally selected.

Finally, what can be done if it is suspected that a POA may be committing POA fraud. An excellent first step would be to contact the offices of the Public Guardian and Trustee for guidance about getting an “accounting” done by the POA. A POA has a duty to provide what is called an “accounting” at certain times or upon request of certain individuals. ***The Powers of Attorney Act, 2002*** defines an accounting as “**an**

accounting with respect to the attorney's management of the grantor's property and financial affairs, or personal affairs". It is very important to note that if a person suspects that a Power of Attorney has defrauded another person through his or her actions as a Power of Attorney an accounting must be requested and provided. **The Powers of Attorney Act, 2002** stipulates who may ask for an accounting.

If the "accounting" reveals evidence of criminal conduct by the POA the matter can be reported to the police for investigation. The "accounting" will form an important part of the evidence that will be needed to pursue criminal charges.

By working in cooperation with the police and the Public Guardian and Trustee the people of Saskatchewan can put a stop to those that wish to defraud others by abusing their Power of Attorney status.

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