



A Living Trust Education Initiative



Who Should You Trust

Avoiding Estate Planning Mistakes

SBM
STATE BAR OF MICHIGAN

Unauthorized Practice of Law Committee
Elder Law and Disability Rights Section
Probate and Estate Planning Section
Consumer Law Section

A presentation
brought to you by:



- Standing Committee on the Unauthorized Practice of Law
- Elder Law & Disability Rights Law Section
- Probate & Estate Planning Section
- Consumer Law Section

Why we are here.

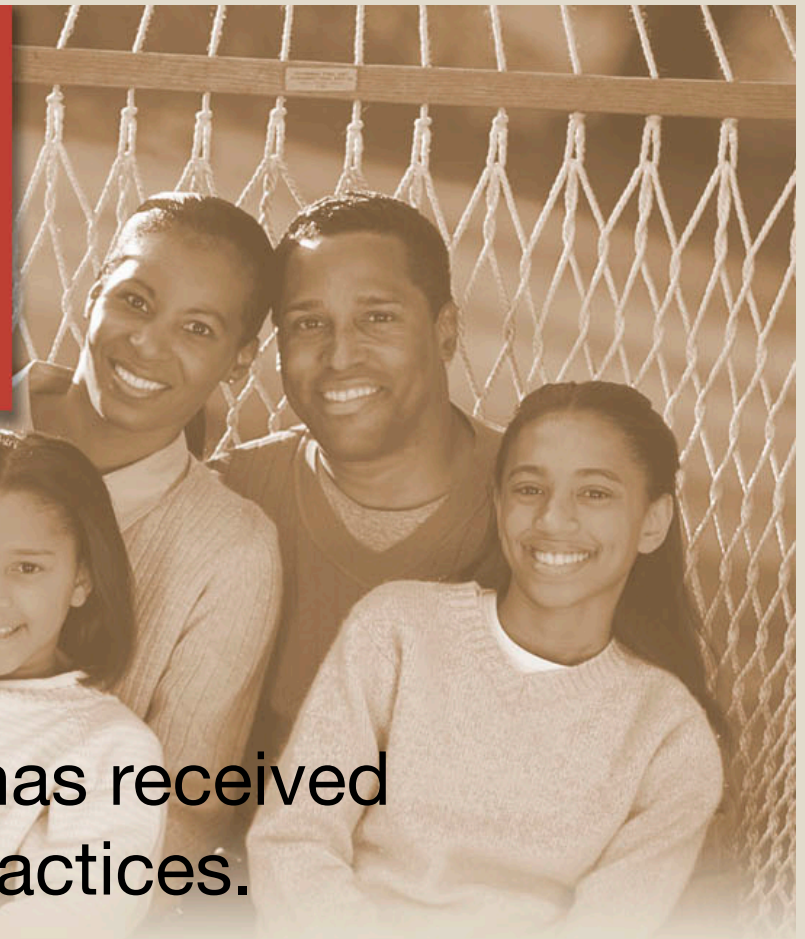
“No organization of lawyers can long survive which has not for its primary object the protection of the public.”

----Robert P. Hudson
First State Bar of Michigan President



- There is a lot of misleading information from non-lawyers.
- The State Bar has received complaints of unauthorized practice of law by estate plan salespersons who are non-lawyers.

Why we are here.



- The Michigan Attorney General has received complaints of deceptive sales practices.
- The Michigan Department of Insurance and Financial Services has received complaints of misleading and inappropriate annuity sales, in conjunction with sales of estate plans.
- We are here to help you find the answers you need before buying an estate plan from a nonlawyer.

The Sales Process

the Free Meal

The free lunch or dinner is used to get access to you and your savings.



The Free Dinner Living Trust Seminar by SSA – Saving for Senior Americans

- How a Trust can save Estate tax
- How Medicaid-friendly annuities can protect your savings
- Retirement Savings

The Sales Process

the Invitation

The “special” invitation is mailed to your home usually personally addressed to give you the false impression that it is a very important, exclusive event planned especially for you.



Menu:

ENTRÉE

20 oz Bone-in Ribeye

Ginger Teriyaki Pork Chops

Sautéed Alaskan Salmon



Complimentary Gourmet Meal

RSVP AT: 1-800-425-9402

PRESORT STD
U.S. POSTAGE
PAID
TAMPA, FL
PERMIT NO. 1402

7906 6

Special Invitation

You and a guest are cordially invited to a special **Complimentary Gourmet Meal** immediately following our “Understanding Different Retirement Strategies” Workshop.

Expect to have a little fun and obtain some meaningful information with none of the usual financial double-talk. There are no costs of any kind, and no obligation.

Please Join Us for this Complimentary Gourmet Meal!



LOCATION

Camille's on the River

506 West Broadway Street
Mt. Pleasant, MI 48858

Please arrive no later than 5:45 PM

Monday
February 13th
6:00 PM

or

Wednesday
February 15th
6:00 PM

To help you know information beneficial to your retirement, we will present **“UNDERSTANDING DIFFERENT RETIREMENT STRATEGIES”** followed by a delicious meal.

You will learn about:

- How our clients have kept their money safer during market downturns.
- How to **NOT OUTLIVE** your income during retirement.
- How to avoid taxes on IRA distributions.
- Where you should never put your IRA.
- Good versus Bad IRAs.

Space is limited, so please call to confirm your reservation today

1-800-425-9402

A licensed insurance agent may contact you

This is an educational workshop, no products will be sold.

No Agents/Brokers/Advisors Permitted.

Please no attendees under the age of 40.



The Sales Process

the **Lead Card**



SSa
*Saving
for Senior
Americans*

certified member
of the
American Senior
Advisor Association

MICHIGAN RESIDENTS **GET THE FACTS and STRAIGHT ANSWERS ON PROBATE**

An **AARP** study found **PROBATE** may cost you up to **15% of your estate.**

Find out how a LIVING TRUST ensures your family will never be subject to the lengthy and expensive legal system. **Learn how to Reduce or Eliminate Your Estate Taxes.** Know what a LIVING TRUST can do to help your family. Act today and learn how to **Avoid Probate and Eliminate Estate Taxes.** It's your money. Keep it. Just return this postage free card today! Or **call: 800-000-000 ext. 123**

name: _____ phone: _____
address _____
city: _____ state: _____ zip: _____

of the
American Senior
Advisor Association

address _____
city: _____ state: _____ zip: _____

The Sales Process

the Free Information Seminar

AVOID
THE
agony
OF
PROBATE

attend our
free seminar at
Whittaker Center

SSa

Saving for Senior Americans

agony
of PROBATE

MICHIGAN RESIDENTS GET THE FACTS and STRATEGIES

An **AARP** study found PROBATE may cost you

Find out how a LIVING TRUST ensures your family will never go through an expensive legal system. **Learn how to Reduce or Eliminate Estate Taxes.** Know what a LIVING TRUST can do to help your family. **Avoid Probate and Eliminate Estate Taxes.** It's your chance to receive a postage free card today! Or **call: 800-000-000 ext. 1**

name: _____

address _____

city: _____

state: _____

SSa Saving for Senior Americans

certified member of the American Senior Citizens Association

misery?

1000 to avoid the

ny
TE

ERS ON PROBATE

s of your estate.

to the lengthy and
Estate Taxes.

arn how to
ep it. Just return this

zip: _____

Association

The Sales Process

the **Phone Call**

hello, hello

*this is
Excell Estate Planning
calling for... you!*

The Sales Process

the **Home Visit**

- The premise is free information.
- The real purpose is to close a sale.



The Sales Process

the **Home Visit /Scare** **Tactics**

You may be told:

- Your will is no good.
- You'll lose your privacy.
- Your heirs lose control.
- Your home and estate will be lost to taxes, attorney fees, and court costs.



The Sales Process

the **Lure**

You may be told:

- A living trust is recommended without regard for your personal circumstances.
- An attorney will tailor an estate plan to your needs.
- Just a one time fee, with no further charges.
- No probate, and heirs will receive immediate distribution.



The Sales Process

High Pressure Tactics

You may be told:

- Don't think it over.
- Don't get a second opinion.
- Don't ask a lawyer.
- Time is running out.
- Don't consult your children.
- It's your money, so you decide.
- Use your debit or credit card.



sign now!

The Sales Process

Closing the Deal

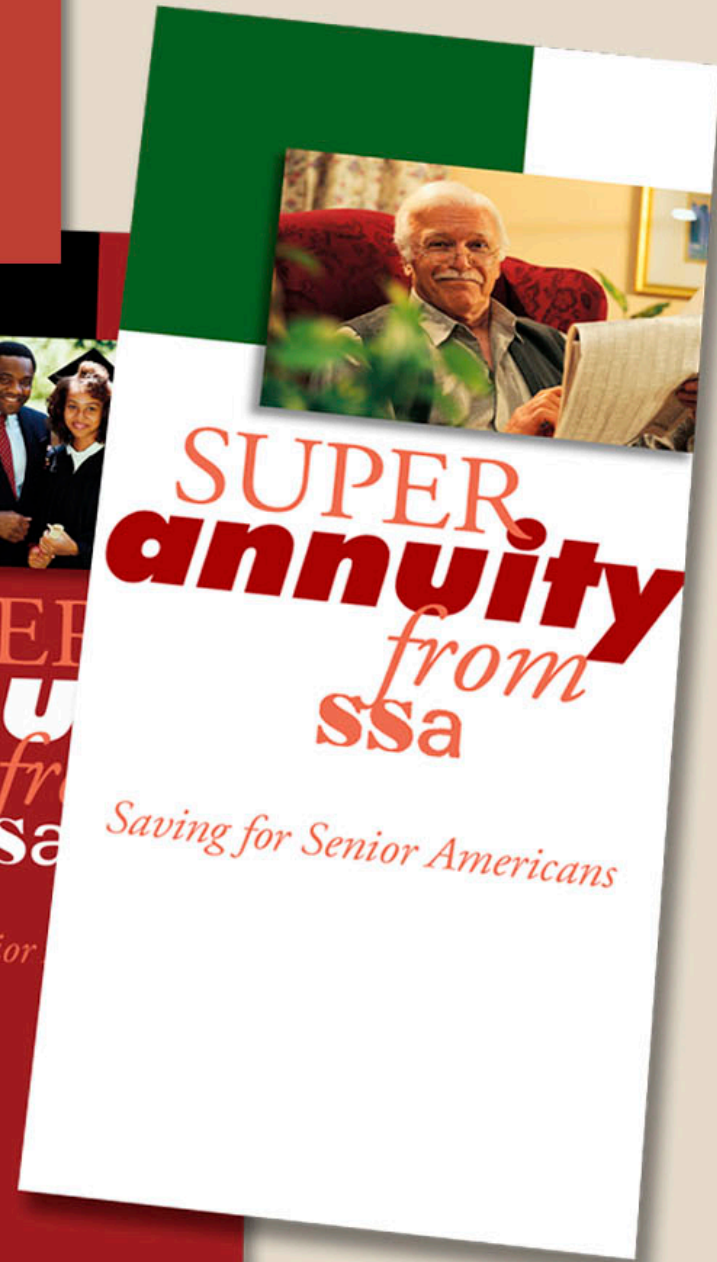
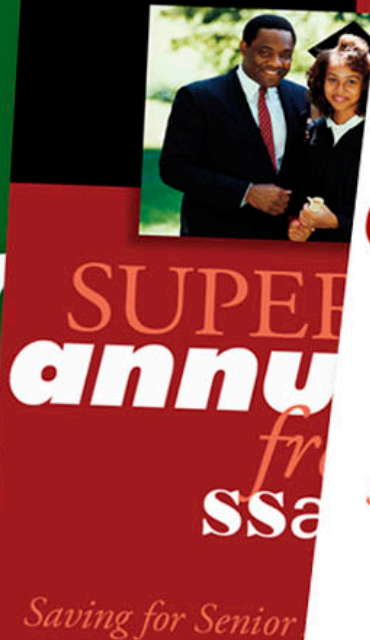
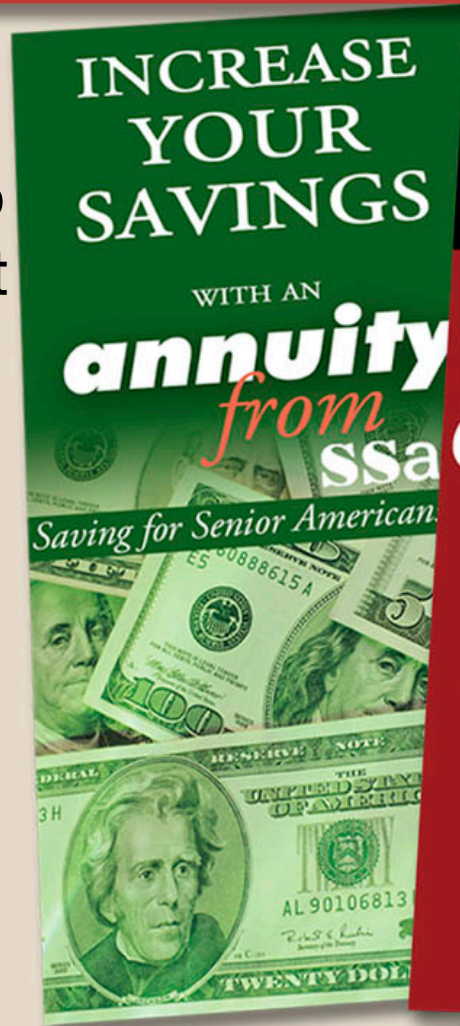
- There will be a disclaimer, “I am not a lawyer.”
- However, the nonlawyer will claim an expertise in elder law and estate planning matters.
- The nonlawyer will then attempt to explain legal matters, such as:
 - (1) How a Living Trust will avoid probate and Estate taxes, and
 - (2) Medicaid laws and the use of “Medicaid-friendly” annuities.



The Sales Process

After the Sale

An annuity locks you into an investment for many years and prevents you from accessing your funds without severe penalties.



Beware of Annuity Scams Targeting Veterans



- “VA Aid & Attendance” is a non-service connected disability pension for wartime veterans and surviving spouses available mainly when medical expenses exceed income and asset eligibility tests are met.
- **Unneeded** annuities are being sold to purportedly help Veterans apply for VA Aid & Attendance.

Beware of Annuity Scams Targeting Veterans – cont'd



- Annuities are being pitched as a way to meet the VA program's asset limit.
- Under the 2008 VA rules, no one may charge a fee for filing a claim for VA benefits.
- Any person giving advice in regards to the preparation or presentation of a VA claim must be accredited by the VA to do so.
- Annuity salespersons are not VA accredited and are not authorized to give VA advice in connection with an annuity sale.

Goals of an Estate Plan by Michigan Lawyers



- Increase awareness of effective estate planning methods, including probate avoidance techniques, such as a funded Living Trust, jointly-owned property, and beneficiary designations.
- Explore options for long term care benefits to assist in the cost of care at home or in a facility.
- Discuss and draft documents that specifically express your individual wishes in regard to:
 - Your medical directives for health care;
 - Who should assist you should you become physically or mentally incapacitated; and
 - Your last wishes regarding property distribution.

Essential Legal Tools for Seniors by Michigan Attorneys



- Advice on Medicaid benefits:
 - 60-month look-back rule
 - Medicaid Estate Recovery against your home and other probate assets, e.g., special deeds
- Advice on Medicare benefits
- Advice on VA benefits
- Advice on Special Needs trusts for persons with disabilities

Essential Legal Tools for Seniors by Michigan Attorneys



- Advice on long-term care planning
- Advice on estate tax planning
- Advice on avoiding uncapping freeze on property taxes
- Advice on Financial Durable Power of Attorney
- Advice on avoiding death-time probate: a living trust, joint tenancy and beneficiary designations

Essential Legal Tools for Seniors by Michigan Attorneys



- Advice on Essential Healthcare Advance Directives:
 - Health Care Durable Power of Attorney**, also called **Patient Advocate Designation** – authorizes a trusted family member or friend to make medical decisions for you during your incapacity
 - Living Will** - states your wishes regarding life support
 - HIPAA Authorization** - allows trusted family member or friend to discuss your private medical information
- Advice on implementation of your Healthcare Advance Directives to assure that your appointed agents have a copy and understand your wishes.

Changes in Michigan Law Impact Estate Planning



Financial Power of Attorney Law

- A statute, enacted on May 22, 2012, attempts to address financial exploitation by agents appointed to serve as Financial Durable Power of Attorney.
- The statute applies to Durable Powers executed after October 1, 2012, and its requirements are summarized as follows:
 - There is a form for agents to sign as an acceptance agreeing to act in the best interests of the person who gives the power and to disclose actions taken;
 - Prohibits gifts and commingling of assets unless permitted by the Durable Power; and
 - Agents are to keep records.
- Durable Powers of Attorney should be updated to at least add the agent's acceptance statement which is provided in the statute.

Changes in Michigan Law Impact Estate Planning- cont'd



Real Property/Land Tax Planning

- Under the Headley amendment, taxpayers enjoy a freeze on taxable value of their real property/land.
- Typically, taxable values on land are uncapped when the original owner(s) die.
- Advance estate planning techniques may be available to land owners to prevent the “uncapping” of the taxable value of their land upon death based on changes in the law.

Avoiding Estate Planning Mistakes



- Use only reliable resources.
- Make informed decisions about your estate plan.
- Obtain competent legal advice from a Michigan lawyer that you choose and trust.
- Get a personalized estate plan designed to meet your specific needs and last wishes.
- Never rely on insurance and/or securities Salespersons to give you competent advice about your estate planning needs.