George B. Hoffman's Statement for US Senate Special Committee on Aging

My name is George B. Hoffman. I presently own my own business known as George B. Hoffman Estate and Retirement Planning with offices in Newport Beach and Whittier California. I am a second year law student and I have been in the field of retirement and investment planning since 1980.

In 1989, while I was employed overseas, my mother passed away and her modest estate was subjected to a 22-month long California probate with the largest portion of the cost being paid to the attorney who drafted her will and advised her against establishing a living trust.

In 1992, when my overseas contract terminated, I returned to the US and began the process of re-entry into the US job market. During that time, I was introduced to an attorney and a couple who were in the development stages of establishing a living trust sales organization they called The Alliance for Mature Americans (AMA).

Because I only recently had experienced the California Probate Court process with my mother's estate, I recognized the tremendous benefit a trust would be to heirs and decided to go to work for AMA as a trust sales representative.

When I began working for AMA, the trust sales group consisted of a rock band musician, an unemployed used car salesman, two housewives, a young ex-marine with no other work experience, a person who sold kitchen cabinets for Sears, a married couple with a lifelong series of various sales jobs and me. It was apparent that, other than myself, none of the other trust sales people had any legal or financial experience. In addition the company employed an office secretary, an attorney and three or four "telemarketers" who appeared to be quite experienced. The telemarketers utilized purchased mailing lists to identify and call homeowners over the age of 55 for the purpose of setting appointments, purportedly to explain the benefits of a living trust.

In their phone presentation the telemarketers would refer to an article on living trusts published in an AARP magazine, and offer to send a "Certified Trust Advisor" to their home for a consultation at no cost to them or obligation to purchase anything. The telemarketing manager would then allocate the appointments made among the sales group and each of us would have two or three potential clients per day.

The sales group was subjected to a two-day sales training session. Here we were given a sample living trust, company brochures on living trusts, and a "pitch book" consisting of copies of several AARP articles on living trusts and estate planning along with an introductory letter from the attorney, a schedule of probate fees and costs for different estate values and a few newspaper articles on the probate of celebrity estates (Bing Crosby's and others).

The first 1/2 of the first day of training was basically an overview of the AMA marketing plan that included a 30-minute attorney presentation on the probate process, the costs and how attorneys generally will not advise a client to set up a trust so the attorney can collect the probate fees at death, and basically how a living trust avoids probate.

Next one of the principals extolled the virtues of the AMA organization and informed us that the sales people were to receive a sales commission on living trust sales of 35% of the selling price for a $1195.00 sale reducing to 25% on a $850.00 sale.

AMA identified certain characteristics of the senior market:

1. Seniors will respond better to an emotional presentation rather than a factual one. - Basically, if the sales person knows too much, he will not be able to convey the emotion necessary to make a sale.

2. Seniors generally need to be treated like children in that they need to be told what to do rather than asked for an opinion.

The training continued with how to use what was referred to as a "smoke sheet" to pre-qualify the people with whom the appointment was set. This sheet contained a number of qualifying questions such as how long the people had lived in their home, how many children they had, what the children's occupations were, how much the house was worth, and an approximation of the overall estate value. - The actual purpose of the "smoke sheet" was to find out if the client had any money and whether they had a friend or relative who was an investment advisor or attorney.

If the "smoke sheet" showed savings and checking account balances with more than $1,000 or so, we were trained to continue with the presentation.

We were taught to direct the client to produce original or copies of the necessary documents needed to actual transfer the client's assets into the trust. (Grant Deeds, Title to Mobile Homes, Time Shares, Stock Certificates, bank, brokerage, IRA and other accounts) as a part of securing the information needed to produce a funded living trust.

Shortly after the end of the training session, based on the 30-minute overview, a "Certified Trust Advisor" certificate was issued to each member of the sales group and we were photographed individually and given an "official" AMA pocket badge.

At the beginning of my employment with AMA, the company principals actually delivered the completed trusts to the clients. When they were able to convince the client to move some or all of their liquid cash into annuity contracts, the originating sales person received a 1% commission based on the amount the client placed into an annuity in addition to the sales commission already received from the trust sale.

As the company grew, there were too many clients for the principals to handle alone and it became necessary to promote some of the trust sales people to the position of a trust delivery/annuity sales agent. AMA paid for special insurance licensing classes for these sales agents so that they could obtain an insurance sales license.

The company maintained intensive and on-going recruiting programs for both sales people and telemarketing staff as there appeared to be a very high turnover rate. However, by the time I left the company in 1994, there were approximately 100 sales people, 50 telemarketers, and 25 people actually delivering and notarizing the trusts and selling annuities, and a staff of about 10 secretaries that actually produced the trusts and funding documents.

Target annuity production sales goals were set for the delivery/annuity sales agents based on the number of assigned trust deliveries and separate training classes were conducted for the delivery agents to maximize their annuity production. The techniques taught included instilling fear of a banking industry collapse (this was during the time of the savings and loan industry problems). Separate presentations were developed for clients who had their money invested in the stock market through either direct investments or IRA accounts. One such technique to a more trusting class of clients was to simply fill out forms to transfer the client's accounts at banks and brokerage houses into annuity contracts purportedly to properly "fund" the living trust. In some cases the client didn't even know he or she had signed papers to transfer his or her retirement nest egg to an insurance company.

A production level of $40,000 in annuity sales per delivery was set for the delivery agents and those who experienced less were simply given fewer trusts to deliver or were relegated to the delivery of a high number of trusts to people who had no money to invest. Both the delivery/annuity sales agent(s) and trust sales representatives bore their own transportation and related costs and were compensated on a commission basis only. The annuity agents received approximately 1/2 of the commissions paid by the insurance companies for placing annuity contracts with the balance of the commissions paid to AMA. As a result, the sales and delivery agents that could not maintain a high closing rate left the company when they began using their personal savings to pay expenses.

The next, and more financially damaging step was to send out high pressure, commission based delivery/annuity sales agents to deliver the trust documents. Here, the goal was to use the senior's fear and concern for outliving his or her savings as a way to convince them to re-invest their savings and retirement funds into annuity contracts with specific insurance companies that paid AMA the highest commissions.

AMA trained the delivery/annuity sales agents to concentrate exclusively on the sale of the high commission annuity contracts. Most of these contracts paid less to the beneficiaries than the initial amount deposited by the customer when he or she died in order to maintain the high commission level.

AMA eventually closed its doors. The California Attorney General brought suit against the company and was able to prevail on their allegations against AMA and the insurers who contracted with them. The principals of AMA agreed to pay a fine of $1.5 Million, and close their operation in exchange for a finding of "no wrongdoing". The last I heard, they had established a new operation, based on their experience in California, in Arizona. If the sales estimates are correct, AMA earned about $20 Million in annuity commissions, and approximately $1 Million from the sale of living trusts in just over 3 years in California.

The original AMA attorney was fined $100,000 for aiding and abetting the practice of law by non-attorneys in establishing over 10,000 living trusts.

Several ex-AMA agents have set up similar operations in the state by skirting the issue of attorney fee sharing for legal services by selling a pre-paid legal services plan that happens to include a living trust "discounted" to $995.00 and continue to sell their trust clients questionable annuity contracts.

Thank you for the opportunity to relate this information to you, I hope that you will find it useful for your purpose.