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Officials seek more monitoring of those who tend vulnerable clients' funds

Paul Gustafson, Star Tribune

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Horror stories about professional conservators who loot the assets of their clients -- the very young, or the elderly or incapacitated -- have been infrequent, but they never fail to shock the public.

In the wake of charges involving Karl R. Bushmaker of Falcon Heights, who is accused of swindling more than \$180,000 from mostly elderly clients, authorities once again are searching for better ways to monitor conservators.

But finding a way to prevent what everyone agrees is a despicable crime is not so easy, they said.

"The fact is there is no system that can be created that is going to completely stop a crook from stealing. All you can do, I think, is make it more difficult to do, and easier to detect," said Ramsey County Attorney Susan Gaertner.

Her office charged Bushmaker Tuesday with nine felony counts of theft by swindle, saying that he stole money from at least 40 clients between 1998 and January 2003.

His case has authorities discussing the possibility of performing random audits of conservators' annual financial reports to the court. But finding money for that or other enhanced monitoring will not be easy amid budget cuts, they said.

Ramsey County Chief District Judge J. Thomas Mott said he will form a task force of court officials, prosecutors, elected officials and attorneys to review current practices for oversight of conservators.

Court officials had discussed the issue before Bushmaker was charged, Mott said. "We felt there probably are some areas we could tighten up, but nobody has a lot of specifics," he said.

Mott said he wants the group to complete its review by December so that any changes requiring new rules or laws could be brought to legislators in the

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2004 session.

Conservators are appointed by judges to care for people who are incapable of managing their own affairs because they are minors or have mental or physical incapacities. Conservators manage the property and financial affairs of their clients and are to ensure that their clients' living needs are met. They commonly perform such functions as paying bills, arranging for medical care and taking care of clients' possessions and finances.

Not licensed

State law requires that professional conservators submit to background checks for criminal records and instances of maltreatment. There is no license required to become a conservator, however.

In Minnesota, conservators are required to file annual reports with the courts detailing their clients' personal and financial condition. But judges and court officials acknowledge that financial audits of conservators are not conducted unless questions arise.

Many district courts in Minnesota, including those in Hennepin and Ramsey Counties, also require conservators to post bonds that Gaertner said could be tapped to repay theft victims.

When major swindles by conservators have been uncovered, it is often outsiders, not the courts, who have discovered it.

Gaertner said that a woman who worked for Bushmaker became suspicious about his handling of client funds, documented several situations that she thought were inappropriate, then contacted the county attorney's office.

Fraud investigators obtained search warrants to seize Bushmaker's records, then spent months sifting through them. A criminal complaint against Bushmaker lists 188 instances in which prosecutors allege that the conservator stole money from clients.

Bushmaker has declined to comment about the charges.

Although he is accused of stealing several large checks from his clients and depositing them in his own bank account, many of the alleged thefts were small and used to purchase items that would not raise suspicions in an annual financial report, Gaertner said.

"He also went after money that family members or other interested persons would not necessarily know existed, such as tax rebate checks," she said.

Mary Watson, president of the Minnesota Association for Guardianship and Conservatorship, said cases in which conservators have stolen large amounts of money from clients are rare. "It just doesn't happen that often. Unfortunately, when it does happen, it's very sad."

Bushmaker served on the group's executive board until his arrest this year in connection with the fraud case, she said.

Watson said random audits of conservators' cases "would be a good idea," but she wondered who would pay for them.

"There has been one school of thought that maybe the court should consider doing random audits. But that is very costly. How do you fund it? The courts budget is overtaxed," she said.

Ramsey County District Judge Margaret Marrinan, whose current assignment includes handling court hearings on the county's 1,800 conservator cases, said random audits might help but would be expensive.

Marrinan suggested that the firms that write bonds for conservators raise their fees to cover the costs of audits.

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