

PART ONE

GUARDIANS FOR PROFIT

When a Family Matter Turns Into a Business

Conservators are supposed to protect the elderly and infirm. But some neglect their clients, isolate them -- even plunder their assets.

By Robin Fields, Evelyn Larrubia and Jack Leonard
Times Staff Writers

November 13, 2005

Helen Jones sits in a wheelchair, surrounded by strangers who control her life.

She is not allowed to answer the telephone. Her mail is screened. She cannot spend her own money.

A child of the Depression, Jones, 87, worked hard for decades, driving rivets into World War II fighter planes, making neckties, threading bristles into nail-polish brushes. She saved obsessively, putting away \$560,000 for her old age.

Her life changed three years ago, when a woman named Melodie Scott told a court in San Bernardino that Jones was unable to manage for herself. Without asking Jones, a judge made Scott — someone she had never met — her legal guardian.

Scott is a professional conservator.

It was her responsibility to protect Jones and conserve her nest egg. So far, Scott has spent at least \$200,000 of it. The money has gone to pay Scott's fees, fill Jones' house with new appliances she did not want and hire attendants to supervise her around the clock, among other expenses.

Once Jones grasped what was happening, she found a lawyer and tried, unsuccessfully, to end Scott's hold on her. "I don't want to be a burden to anyone," she told a judge, almost apologetically. "I just wanted to be on my own."

Jones' world has narrowed. She used to call Dial-A-Ride and go to the market, or sit in her driveway chatting with neighbors.

Now she spends her days watching television in her living room in Yucaipa, amid pots of yellow plastic flowers and lamps with no shades. The caretakers rarely take her from her house, except to see the free movie each Friday at the local senior center.

"I'm frustrated, because I don't know my way out," she said, sitting within earshot of one of Scott's aides. "There must be a way out."

Jones' conservator is part of a young, growing and largely unregulated trade in California.

Conservatorship began as a way to help families protect enfeebled relatives from predators and self-neglect. As a final recourse, courts take basic freedoms from grown men and women and give conservators sweeping power over their property, their money and the smallest details of their lives.

But lawmakers and judges did not foresee that professionals would turn what had been a family matter into a business.

In the hands of this new breed of entrepreneur, a system meant to safeguard the elderly and infirm often fails them.

The Times examined the work of California's professional conservators, reviewing more than 2,400 cases, including every one they handled in Southern California between 1997 and 2003.

Among the findings:

- Seniors lose their independence with stunning swiftness. More than 500 were entrusted to for-profit conservators without their consent at hearings that lasted minutes. Retired candy company owner Donald Van Ness, 85, did not know what had happened to him until he tried to pay for lunch at a San Diego-area restaurant and was told his credit card had been canceled.
- Some conservators misuse their near-parental power over fragile adults, ignoring their needs and isolating them from loved ones. One withheld the allowance that a disabled man relied on for food, leaving him to survive on handouts from a church. Another abruptly moved a 95-year-old woman to a care home and for a month refused to tell her daughter where she was.
- In the most egregious cases, conservators plunder seniors' estates. One took 88-year-old Thelma Larabee's savings to pay his taxes and invest in a friend's restaurant. Helen Smith's conservator secretly sold Smith's house at a discount — to herself. The conservator's daughter later resold it for triple the price.
- More commonly, conservators run up their fees in ways large and small, eating into seniors' assets. A conservator charged a Los Angeles woman \$170 in fees to have an employee bring her \$49.93 worth of groceries. Palm Springs widow Mary Edelman kept paying from beyond the grave: Her conservators charged her estate \$1,700 for attending her burial.
- Once in conservators' grasp, it is difficult — and expensive — for seniors to get out. Courts typically compel them to pay not only their own legal fees, but those of their unwanted guardians as well. In the 15 months it took Theresa Herrera's grandson to unseat her conservator, almost half of the 92-year-old's \$265,000 estate had been exhausted.

"It's really scary," said Mitchell Karasov, a North Hollywood attorney who specializes in elder law. "Would you want that to happen to you? This is what we'll have to look forward to — that we'll be disposable when we no longer have a voice."

There are about 500 professional conservators in California, overseeing \$1.5 billion in assets. They hold legal authority over at least 4,600 of California's most vulnerable adults.

Yet they are subject to less state regulation than hairdressers or guide-dog trainers. No agency licenses conservators or investigates complaints against them.

Probate courts are supposed to supervise their work. Yet oversight is erratic and superficial. Even when questionable conduct is brought to their attention, judges rarely take action against conservators.

Three of the past four governors have vetoed legislation that would have provided tougher oversight.

This deeply flawed system is about to be hit by a demographic wave. By 2030, the number of Americans older than 65 is expected to double. Experts predict that as many as 10% of them will suffer from Alzheimer's disease.

'She Was Managing'

Helen Jones said she always dreaded the sort of old age she has now, marked by childlike dependence.

Married only briefly and late in life, Jones said she had always done for herself, even as a child in Nebraska, where she scavenged for coal along the railroad tracks to help keep her family warm.

Before Scott entered her life, she kept her financial records in accordion files, paid her bills promptly and knew how much money she had, down to the penny.

She was nearly deaf, and a rare disorder of the nervous system limited her mobility. But she could still make her way to the bank and take her wash to a local laundromat.

"She was managing," said Alice Wilson, a neighbor for more than 30 years. "She's a self-sufficient person."

As Jones' conservator, Scott took over her checking account and put her on an allowance, initially \$50 every two weeks.

Scott started making improvements to Jones' pale stucco home, installing central air conditioning, a new refrigerator and a washer and dryer. Scott paid her own sister \$1,550 to paint the house.

It pained Jones to see someone else spending her money. So frugal that she still has a red-knit sweater she wore 60 years ago, she even complained when Scott billed her \$40 for a Christmas tree. The plastic one in her garage would have done just fine, Jones said.

Decisions about her medical care were another source of contention.

Scott said in court papers that, months after becoming her conservator, she received medical records indicating that Jones had once been diagnosed with schizophrenia.

Scott's staff began taking Jones to a psychiatrist. He prescribed Zyprexa, a drug used to treat schizophrenia and bipolar disorder. Jones refused to take it, saying she did not have either condition.

An aide hired by Scott, Gerlie Kirbac, said one of the conservator's subordinates told her to crush the drug into Jones' food, but she refused.

Kirbac said she also took Jones to the bank so she could check on her money and was fired for it.

"Melodie told me I can't handle Helen," she said. "I said, 'What kind of handle do you want?'"

Scott, 47, whose conservatorship business is the largest in the Inland Empire, said she could not discuss the case because Jones' medical history is private and her complaints are the subject of litigation.

"It would be horribly unethical to breach Mrs. Jones' dignity and right to confidentiality," Scott said in a statement.

In her most recent court filing, a routine list of bills and fees, Scott described Jones as "alert, conversant, obstinate, independent and often paranoid."

She also said Jones suffered from schizophrenia.

Carefully annotating her own copy of the report, Jones circled "schizophrenia" and wrote a comment in the margin: "BS."

Early this year, as Jones struggled to reclaim her independence, she lost her younger brother, Frank Janicek.

He was her last bit of family, her Sunday telephone call. A former Douglas Aircraft worker who served in Africa during World War II, Janicek died of pneumonia in January at 85.

Jones wanted him to have a traditional burial. An earlier experience had left her strongly

opposed to cremation.

But upon learning that Jones had a conservator, the funeral home called Scott, who made arrangements for the disposal of Janicek's remains.

In March, a caretaker drove Jones to Riverside National Cemetery, then pushed her wheelchair to a shelter about the size of a bus stop. A bugler played taps. Two women in dress uniform folded an American flag and presented it to Jones.

She was pleased to see her brother put to rest with military honors.

But she noticed that there was no coffin.

Instead, there was a brass urn containing Janicek's ashes.

Rise of a Profession

The concept of conservatorship dates back at least to medieval England, where guardians were appointed to manage the property of people deemed "lunatic."

In the U.S., California stood for decades as the model for a humane system. The state pioneered legislation in the 1960s and '70s to protect against arbitrary or needless conservatorships. Adults were guaranteed advance notice of court hearings to appoint a conservator, along with legal representation and the right to a jury trial.

Lawmakers assumed the conservator would be a family member or friend.

In 1969, John M. Mills, an economics professor at El Camino College, rented a room in a downtown Los Angeles church and opened what is believed to have been the state's first conservatorship business.

Twenty years later, a court banished Mills from the trade after the state attorney general's office accused him of financial irregularities. By then, he had inspired many others to enter the field.

In most instances, loved ones still act as conservators for incapacitated old people. But professionals now handle about 15% of the cases in Southern California.

Although some have only a few clients, others run thriving businesses, managing the lives of more than 100 adults at once. An elite group focuses on wealthy seniors, employing large staffs and commanding rates of up to \$135 an hour.

Conservators hold positions of trust on a par with lawyers, accountants and investment firms. In contrast with those professions, however, they don't have to earn degrees or pass licensing exams. Anyone with a clean felony record who pays a \$385 state registration fee can go into the business.

Only now is the state moving to impose basic standards. Beginning next year, conservators will need a college degree, experience in the field or certain levels of training. Most current practitioners will not be affected, however.

Conservators find clients by sponsoring breakfasts at senior centers and networking at legal luncheons. Nursing homes call when residents become too addled to pay the rent, wanting a conservator to write checks for them. Hospitals call when patients have outlasted their insurance, hoping that a conservator will move them somewhere else.

Once conservators identify a prospect, they can go to court and initiate a case without the client's approval.

With rare exceptions, they look for people with money. Frumeh Labow, Los Angeles' busiest conservator, sets a minimum of \$300,000 — enough to guarantee her paycheck for at least a few years, if the client lives that long.

Other conservators have a more modest threshold.

"If the person has six months, the doctor tells me she has terminal cancer and she only has \$30,000, I'll take a chance on that," said Jeffrey Siegel, who runs a large Los Angeles practice.

In many cases, professional conservators have done admirable work. Some have saved seniors from con artists or thieving relatives. Others have ensured that lonely adults lived out their last days in dignity.

Many continue to serve clients after their money has run out.

"We're in this business to help people and to protect people," said Ron Patterson, a Bay Area conservator who is president of the Professional Fiduciary Assn. of California. "None of us are here, I believe, to enrich ourselves in any way except the natural way one does in business."

But even some conservators admit they would not want one themselves.

"I can decide who they see. I can put them in a nursing home," said Labow. "It's the biggest imposition on your civil liberties short of being imprisoned."

Quickly in Control

Professional conservators take over with jarring speed.

In many courtrooms, they get emergency appointments on the day they ask for them, based on short forms in which they swear that prospective clients cannot care for themselves.

These hasty hearings are meant for cases in which elderly people are in imminent danger. But professional conservators have made them the norm, The Times found. More than half of their Southern California cases began this way.

Adults are entitled by law to attend emergency hearings. Yet they were not formally notified in more than half the cases The Times examined. Often, judges dispensed with the requirement after conservators told them that prospective wards were too feeble to come to court.

By securing immediate appointments, professionals can gain control over elders before safeguards required in nonemergency cases kick in. For example, in nine of 10 emergency cases, wards were not interviewed by a court investigator before a judge decided they needed a conservator.

The events leading to Jones' conservatorship began in November 2002, when a chance acquaintance, Cindy Gurrola, gave her a ride to the bank. After Gurrola expressed concern for Jones' welfare, a bank employee gave her the business card of a Redlands company that serves the elderly.

Gurrola said she called the number and gave an employee Jones' address. There was no mention of conservatorship or that Jones would be giving up legal control of her affairs, Gurrola said.

About a week later, Jones said, she was napping in her home when a woman walked in and woke her. The woman said she was with "CARE." Jones said she thought that meant California Alternate Rates and Energy, Southern California Edison's reduced-rate program for seniors.

Jones signed a one-paragraph document, not bothering to read it.

In fact, the woman worked for Conservatorship and Resources for the Elderly Inc., the firm owned by Melodie Scott. The document said that Jones nominated Scott to be her conservator.

"I was sleeping here and someone tapped me on the shoulder and said sign this," Jones said. "And stupid, I signed it, not knowing what I was signing.

"To me, 'conserve' means to save and I thought this was a way of saving me money so I wouldn't have to pay utilities."

The nomination was dated Nov. 22. Eleven days later, Scott filed an emergency request to become Jones' conservator. She said Jones could not keep up with her bills, had a house full of clutter and could no longer manage "the activities of daily living."

Judge Phillip M. Morris granted the petition the next day.

After about a year, Jones decided to fight back. A bank clerk told her that she could not redeem a CD that had matured — only Scott could. Upset, Jones had her caregiver take her to see paralegal Barbara Seifritz at the Yucaipa Senior Center.

Jones appeared so clear-headed and well-informed that Seifritz was surprised to learn she was under conservatorship. So was Bob Roddick, Seifritz's boss at the nonprofit Inland Counties Legal Services.

At a hearing in March 2004, Roddick told Judge David A. Williams that Jones did not need a conservator.

"She seems perfectly capable of taking care of herself," Roddick said.

"Well, we already have a conservatorship," the judge replied.

"I have it, but I would like to terminate it," Jones told him, confiding her worry that Scott was draining the savings it had taken her 60 years to build.

The judge could have ended her conservatorship on the spot or directed his staff to investigate. He did neither.

He appointed an attorney to review the handling of Jones' finances, but left her in Scott's hands.

By then, Jones had gotten a look at Scott's expense records and saw that her money was going out nearly three times as fast as it was coming in. Scott's firm is spending Jones' money at a rate of \$84,000 a year, records show. Her income is about \$27,000 a year.

At a hearing in August 2004, court-appointed attorney Donnasue Ortiz challenged the conservator's fees and spending as "excessive."

Scott sought to justify the expenses by saying that Jones was "near death" when she intervened. She told the court that Jones had left a convalescent home "against medical advice," that she was "totally dehydrated and malnourished" and that her garage harbored "thousands of rats," prompting complaints from neighbors.

Jones called Scott's description "one big fabrication." She said that she spent several days in a nursing facility after suffering a fall in October 2002 but that a social worker signed her out, saying she did not need to be there. Two friends who drove her home corroborated her account.

As for rats, three of Jones' neighbors said in interviews that they never saw or complained about any.

In July, with the conservatorship still in place, a frustrated Roddick filed a petition to end

it. A judge refused to hear his arguments, saying he had no standing to intervene.

The judge scheduled a hearing for Dec. 2 at which Jones will be represented by Ortiz.

"I don't know how this is going to turn out," Jones said outside the courtroom. "My age is against me and my hearing is against me."

'Chewing Up Estates'

From the moment seniors are entrusted to a professional conservator, the meter is running.

The law allows conservators to spend their wards' money as they see fit and requires them to submit periodic reports. Courts must approve their fees, but state law sets no limit on their compensation beyond that it be "reasonable."

Reports examined by The Times show that conservators have billed elderly people for what one described as "drive-by" property inspections and for moving furniture around a room.

Frances Dell, 90, paid her conservator \$715 for accompanying her to parties and informing her that her favorite niece had died, among other services. "She needed someone to cry with and mourn her own mortality," the conservator wrote in her bill.

Seniors often pay for layers of helpers hired by their conservators — property managers, home-care supervisors, case managers and more. They pay for flowers, chocolates and other gifts that conservators give them on special occasions.

Among the Christmas presents one woman unwittingly lavished on herself: men's cologne and a stocking with her name embroidered on it, misspelled.

"The word is *conserve*. You're supposed to conserve people's estates," La Mesa probate attorney Richard Schwering said. "Conservatorship is chewing up estates."

The bills pile up even faster when seniors or their families challenge conservators' control.

Wards pay their conservators' legal bills on top of their own because the court does not consider the parties to be adversaries. Even when conservators oppose their clients' wishes, they are assumed to be looking out for their best interests.

Street-smart and self-made, Charles Thomas built an \$18-million empire by investing in Burger King franchises and real estate in some of Los Angeles' toughest neighborhoods. After he was diagnosed with Parkinson's-like symptoms, it became clear he would have to hand over the reins of his businesses.

Thomas had a complex family, with children from several marriages. He picked an outsider — Labow — to be conservator of his estate.

She was appointed in September 1998. Just over a year later, Thomas told his court-appointed counsel that he "wanted Frumeh Labow out of my life."

Labow refused to go, saying Thomas had chosen her before his illness clouded his judgment.

After five years, Labow remained in charge. Thomas had paid \$1.1 million in fees to her, the lawyers his relatives had hired to oust her, and the six attorneys Labow had hired to fend them off and manage his holdings.

Suffering from aphasia, Thomas, 70, is no longer able to speak for himself. His family has come to accept that Labow will be a permanent presence in their lives.

"You can't fight them if they're using his money to fight you," said his son, Michael.

'Sarah Could Be Trusted'

Court-sanctioned fees are the only compensation to which conservators are entitled for managing the affairs of their clients.

The Times found at least 50 instances in which conservators used their authority over seniors' assets to benefit themselves or their friends, relatives or employers in other ways. Courts approved many of their actions, though often with incomplete information.

A Sacramento conservator hired his live-in girlfriend's firm to auction off his wards' possessions and sell their houses. A San Francisco conservator decorated his apartment with a client's valuable Chinese paintings.

Melodie Scott acknowledges that she let another professional conservator, Sarah Kerley, live rent-free in a client's house in Glendale for months. Kerley was married to Scott's brother at the time.

Scott did not disclose their relationship in her reports to the court. In an interview, she said the three-bedroom, Spanish-style house was in poor condition and that Kerley made repairs in lieu of paying rent and, later on, in exchange for reduced rent.

Scott said she did what she thought was best for the client, Jeanne Ledingham.

"There was no intention ever to take advantage of Ms. Ledingham to the benefit of Sarah Kerley or myself," Scott said. "I thought I was being a hero.... This charming little house, this beautiful garden — Sarah could be trusted."

While Kerley was living there, Ledingham paid the utility bills, as well as thousands of dollars to a gardener and a property manager hired by Scott.

Ledingham, who suffered from bipolar disorder, was 51 when Scott took control of her affairs. Scott moved her into a board-and-care and, later, an apartment while Kerley lived in her house.

Ledingham's daughter, a sophomore at a Louisiana college when the conservatorship began, said she was appalled by what happened.

"There were all these people — conservators, attorneys, judges," said Candace Ledingham-Ramos. "No one was looking out for my mother."

Marin Support Services for Elders, a nonprofit group for seniors, was supposed to look out for Florry Fairfield.

Fairfield, a retired real estate agent who had never married, lived with her miniature schnauzer, Daisy, in the quiet Bay Area suburb of Fairfax.

Anne Smith, then director of Marin Support Services, became Fairfield's conservator in March 2001 after telling a court that Alzheimer's-type dementia had left her "clearly unable to handle her affairs or resist undue influence."

Less than a month later, Fairfield, then 82, signed a new will. It was drafted by the lawyer representing Marin Support Services in the conservatorship case.

The will made the organization the main beneficiary of Fairfield's \$1.1-million estate and named Smith co-executor.

California law bars professional conservators from inheriting from their wards in such circumstances unless the will was reviewed by an independent attorney or a court. There is no evidence that either step was taken in Fairfield's case.

The law clearly applies to individual conservators. It is unclear whether it applies in this instance because the beneficiary of the will was Marin Support Services, not Smith. Still, experts said, neither conservators nor their employers should become their clients' heirs because it creates a conflict of interest.

"What incentive do they have then to keep the client alive?" said Mitchell Karasov, the elder-law attorney. Every penny spent on the ward's care would reduce the conservator's bequest, he said.

William Kuhns, the lawyer for Marin Support Services, said he drew up the will at Fairfield's request. She decided on her own how to divide her wealth, he said.

"Maybe it gives you the appearance of a conflict of interest, but I've been an attorney for many years, and I'm very comfortable that this was in accordance with her wishes," said Kuhns.

Kuhns collected more than \$36,000 for his work on Fairfield's conservatorship and estate.

Four weeks after Fairfield signed the will, a judge deemed her dementia severe enough to disqualify her from voting.

Asked how Fairfield could be too demented to vote, yet able to divide a million-dollar estate, Smith said she could not comment, citing concern for Fairfield's privacy. Speaking generally, she said that people suffering from dementia could still possess the mental soundness to make such decisions.

"Dementia is not a black-and-white disease," Smith said. "People can be very clear about some things and very confused about others."

When Fairfield died, Marin Support Services inherited more than \$675,000.

'Lurking in the Shadows'

Even elderly people who have organized their affairs in advance can be pulled into this broken system.

Robert Mushet thought his mother was set.

Dorothy Mushet had signed papers designating her son, then an engineer with Boeing, to make decisions for her if need be. When she began to show signs of dementia, he arranged for her medical care and managed the money she had inherited from his father and earned as a saleswoman for Joseph Magnin Co.

Then, in September 2002, Robert got a call from his mother's nursing home. A Santa Barbara court, he learned, had appointed a professional conservator for Dorothy, then 94.

"I hung up the phone and darn near collapsed," Robert recalled.

His estranged daughter had petitioned for a conservator, saying he had moved Dorothy to the nursing home against her will. The daughter nominated Suzanne McNeely, a leading Santa Barbara conservator. Robert said he moved his mother because it was dangerous for her to live at home in her weakened state.

With court permission, McNeely moved Dorothy Mushet back into her house and hired her own firm to provide round-the-clock aides for four months, for which she later tried to charge \$68,000.

Robert ultimately persuaded a court to make him his mother's conservator, as she had wanted, and to cut McNeely's total bill from \$80,600 to about \$24,000.

"You brought a matter to court that shouldn't even have come here," Judge J. William McLafferty told McNeely and her attorney.

Though victorious, Robert Mushet said he ran up \$50,000 in legal fees. McNeely appealed the judge's reduction in her fee, ultimately settling for a \$5,000 increase.

Dorothy died in March 2003. Her son said he felt strangely grateful to her disease for shielding her from the nasty tug of war that poisoned her final months.

"It would've killed my mom if she knew anything about this," he said.

Gerardine Brown, a state parole officer, had little notion what conservatorship was until she retrieved a letter from her mailbox one night in May 2000.

It said a stranger had asked to become her 86-year-old mother's conservator. A judge was set to hear the case 12 hours later in Los Angeles — 375 miles from Brown's home outside Sacramento.

Brown got into her car and sped south, driving through the night. "I didn't have time to hire an attorney," she said. "I'm standing there in front of the judge with no idea of what I'm going to face."

Brown's mother, Charlotte Shelton, was a retired biochemist whose work for the Navy broke ground for a woman of her era. Brown — her only child — said she called Shelton regularly, trying to persuade her to move closer to her remaining family as her health failed. Shelton clung stubbornly to her home in Eagle Rock.

Sarah Kerley, the same conservator Scott had let live in a client's house, told the court that Shelton's doctor had asked her to step in. Kerley arranged for a psychiatric evaluation that led to Shelton's involuntary hospitalization in a mental ward. Then Kerley filed papers to become her conservator.

The judge appointed Kerley temporarily while a court-appointed attorney assessed Shelton's condition. The attorney reported three weeks later that he saw no reason why Brown should not assume responsibility for her mother, as long as she did not move her from Southern California. When the judge approved the change, Brown figured the conservator was gone.

Not so. Kerley fought for a continuing role in Shelton's life, challenging Brown on who should pick her mother's doctors and who should be her permanent conservator.

Eventually, Brown said, she agreed that her mother would pay Kerley's fees and those of her attorney if Kerley would stay out of the family's affairs. Just as the settlement was being finalized, Shelton died.

The conservator and her attorney later collected almost \$18,000 from Shelton's estate.

Kerley did not respond to requests for comment.

"These people are just lurking in the shadows," Brown said. "It's just chilling to think it can happen to anybody."

Postier vs. Marshall

Over 13 days beginning in September 2002, the rarest of scenes played out in a San Jose courtroom.

Lawyers for an elderly woman named Ruth Postier took a professional conservator to trial, accusing him of violating her rights and wasting her money.

Russell Marshall, a well-known Santa Clara County conservator, had secured an emergency appointment to look after Postier, then 77, and her husband, Ed, 80, in August 2000.

Until then, the Postiers had eked by, relying on friends for help. Married since they were teenagers, they had no children or surviving close relatives. They had only Social Security for income, having exhausted their savings from an upholstery business.

Their house was their one real asset, worth more than \$500,000 despite its crumbling roof and exposed wiring. It held decades of memories, including a wall of ribbons won by Stardust, their champion Doberman.

In the eight months that Marshall was their conservator, the Postiers chafed at his authority.

After Ed allegedly threatened Ruth during an argument, Marshall moved him into a locked nursing home without the necessary court permission. He later moved the Postiers into separate apartments in an assisted-living complex and put their home up for sale.

Marshall also exhausted their meager resources, incurring more than \$50,000 in unpaid bills. He hired a family therapist, paying her \$65 an hour not only to counsel the couple, but also to shop for pillowcases, wastebaskets and other household items.

After two months, a court investigator came to check on the Postiers. They complained bitterly about Marshall. Public Defender Malorie Street was assigned to represent the couple and objected when the conservator asked to have his temporary control over their affairs made permanent.

Marshall, in an interview, defended his conduct.

"They wanted me to be their conservator because they wanted to move," he said. He said he had planned the Postiers' expenses carefully and would not have run up debts if Street's opposition had not delayed his efforts to sell their house.

In April 2001, Ed died and the county public guardian took responsibility for Ruth.

After Marshall submitted his final report, Street demanded that the court sanction him for abusing her clients.

When the matter went to trial, a videotape deposition Ruth had given months earlier was shown in court. She could not testify in person, having suffered a stroke that left her speech almost unintelligible. Instead, her worn face appeared on a TV screen, oxygen lines running from her nose.

"Did you want Ms. Street to sue Russell Marshall?" the conservator's attorney asked her.

"Well, he sure didn't do right by me," Postier replied. "He made a mess of my life."

She described how the conservator began removing her belongings from the house as she ate dinner one night.

"Just hauled it out, whether I liked it or not," she said.

Postier said she had never wanted to leave the home she had shared with her husband for so many years. Though they argued often, she once told a friend she wanted their headstone to say, "Ruth and Ed Postier, Together Forever."

She raised trembling, papery hands over her eyes.

"I went through hell," she said.

Superior Court Judge Thomas Hansen found that Marshall had increased the Postiers' indebtedness and moved Ed without proper authority. Nonetheless, he decided Marshall's conduct did not constitute elder abuse.

Hansen awarded Ruth nominal damages of \$1, saying it was impossible to measure monetarily what harm, if any, Marshall's actions had caused her.

The judge awarded Marshall and his legal team \$75,000. Later, Postier's own lawyers collected more than double that amount, swallowing what was left of her estate.

Street came away stunned.

"That case sent me around the bend," she said. "The statutes designed to protect my clients didn't."

Shortly before Ruth Postier died on May 29, 2003, her caretakers deposited Marshall's check to her.

It was for \$1.02.

Damages plus interest.

*

Times researcher Maloy Moore contributed to this report.

*

(BEGIN TEXT OF INFOBOX)

Emergency appointments

More than half of all conservatorships filed by professionals in Southern California between 1997 and 2003 were granted by the courts on an emergency basis, often bypassing initial assessments by court investigators and other safeguards designed to protect wards' rights. In all, there were 1,160 emergency appointments.

--

Granted without notice to senior or family: 56%

--

Granted before an attorney appointed: 64%

--

Granted before court investigator's report: 92%

--

Sources: Probate records for Los Angeles, Orange, Riverside, San Bernardino and Ventura counties. Data analysis by Maloy Moore

*

(BEGIN TEXT OF INFOBOX)

An aging population

The proportion of Americans 65 and older is expected to grow between now and 2030, as is the number 85 and older.

Percent of population, 2000-2030:

United States

- 65 years and older

2000: 12%

2030 projected: 20%

*

- 85 years and older

2000: 2%

2030 projected: 3%

*

California

- 65 years and older

2000: 11%

2030 projected: 17%

*

- 85 years and older

2000: 1%

2030 projected: 2%

*

Southern California

- 65 years and older

2000: 10%

2030 projected: 17%

*

- 85 years and older

2000: 1%

2030 projected: 2%

*

Source: Census Bureau, California Department of Finance, Times reporting. Graphics reporting by Maloy Moore

*

(BEGIN TEXT OF INFOBOX)

Planning ahead

To avoid a conservatorship, or to ensure that someone you trust is put in charge of your affairs, attorneys recommend one or more of the following steps.

A durable power of attorney designates someone to manage your finances. It does not have to be drafted by an attorney, but must be notarized if real estate is involved. If you don't plan on using an attorney, ask for a "statutory" form at stationery stores or look for it on the Internet.

An advance healthcare directive authorizes a friend or loved one to make medical decisions for you. A kit for creating one can be ordered online through the California Medical Assn. (www.cmanet.org).

An advance nomination designates someone to serve as your conservator if a court deems one necessary.

A revocable trust, also known as a **living trust**, designates an individual to manage your assets outside court jurisdiction while you are alive and after you die, thereby avoiding the cost of probate. Trust documents must be filed with your bank and other financial institutions.

Be sure to inform the people whom you have designated to make decisions for you. Give them copies of the appropriate documents and tell them where the originals have been filed.

Source: California Medical Assn; Irell & Manella; Mitchell A. Karasov; American Bar Assn.

*

About this series

Caring for the aged and infirm was once a family affair. Now, it is a business. In documenting this change, reporters Robin Fields, Evelyn Larrubia and Jack Leonard and researcher Maloy Moore examined records of more than 2,400 cases handled by California's professional conservators since 1997. They also conducted hundreds of interviews — with probate lawyers, judges and independent experts as well as people under conservatorship and their loved ones.

Monday: How probate courts have failed the elderly.

Tuesday: One conservator's troubled career.

Wednesday: L.A.'s public guardian — a canceled promise.

On the Web

To see a photo gallery, share your experience and ask the reporters a question, visit latimes.com/conservators

PART TWO

GUARDIANS FOR PROFIT

Justice Sleeps While Seniors Suffer

Probate courts are supposed to watch conservators' conduct and discipline those who abuse their authority. They've failed dismally in this vital role.

By Jack Leonard, Robin Fields and Evelyn Larrubia

Times Staff Writers

November 14, 2005

Emmeline Frey was wheeled toward the bench, escorted by a family friend. She was 93 years old and frail, suffering from dementia and a broken hip.

In San Diego County's busy Probate Court, it was up to Judge Thomas R. Mitchell to decide how to preserve the \$1 million she had amassed pinching pennies over a lifetime. On the recommendation of Frey's attorney, he appointed a professional conservator named Donna Daum.

Frey's affairs were now in the hands of a caretaker acting under court supervision. Her money should have been safe.

It was not.

Daum gave her son, a car salesman turned financial advisor, more than \$500,000 of Frey's savings to invest. Over the next four years, the investments lost more than

\$100,000 in value while the son collected commissions.

Mitchell, who described himself as the "super father" of the seniors who entered his courtroom, never questioned what Daum was doing with her client's money or why her son was involved.

The case illustrates how inaction and inattention by the courts have left many elderly Californians vulnerable to abuse by the very people entrusted with their care.

Professional conservators wield enormous power over people deemed too infirm to look after themselves. They choose their doctors, control their bank accounts and decide where they will live — even who can visit them.

Probate courts, which appoint conservators, are supposed to monitor their conduct, scrutinize their financial reports and fine or remove those who misuse their authority.

Yet the courts have failed dismally in this vital role.

A Times examination of more than 2,400 conservatorship cases since 1997 found that judges frequently overlooked incompetence, neglect and outright theft.

Some conservators steered business to friends and relatives without protest or punishment from the courts, records show. Some failed to pay their clients' bills. Others pocketed their cash and jewelry.

In most cases, evidence of these abuses was in the courts' own files.

An online registry created six years ago to identify and track problem conservators has proved a failure. The reason: Most county courts have ignored it, even though participation is mandatory.

"The real problem is sloth, taking the easy way," said Marc Hankin, a Los Angeles attorney who helped write laws on elder abuse.

"The last thing the judge wants to do is make a decision."

Probate judges say that they do their best, but that the courts are swamped with cases and short of staff.

The conservatorship system was designed to help family members take care of loved ones. Now, more and more cases are handled by for-profit caretakers like Daum, whose fees are paid from their clients' bank accounts.

Elderly wards often have no surviving friends or family members to speak up for them. Yet the culture of the probate courts, stuck in an earlier era, reflexively grants conservators the benefit of the doubt.

They are assumed to be acting in their clients' best interests — in some cases even when their own filings with the court suggest otherwise.

"If no one complains, the court isn't out there to investigate," said retired Judge Robert Letteau, who supervised probate courts in Santa Monica and downtown Los Angeles from 1995 to 2002. "If stuff's being stolen, misappropriated, we wouldn't know about it."

Paying a Steep Price

For years, Emmeline Frey managed her husband's tuna fishing business, keeping the books, buying equipment for his 42-foot trawler and saving as much as she could for their retirement.

After he died, Frey guarded her nest egg. She rarely ate out. She wore jeans until they were threadbare. She told a friend she would never take a risk on the stock market, preferring the security of savings accounts.

Under conservatorship, however, Frey had no say in what happened to her money.

That was for her conservator to decide. Yet Daum, a former administrator at a social service agency, had little investment experience. So, beginning in late 2000, she entrusted her son, Timothy J. Spalla, with at least \$3 million belonging to 13 of her court-appointed clients.

Only three years earlier, Spalla had been working at a Dodge dealership in Wisconsin.

The first sign that something was amiss came in November 2002, when Daum disclosed in a report to the court that Spalla had put Frey's money in mutual funds. Conservators must get court approval for such an investment. Daum had not.

Spalla's investments did poorly, and his mother's clients paid the price — along with his commissions.

In Frey's case, Spalla took a gamble on aggressive growth funds that took a beating after the stock market began to tumble in 2000.

Because his mother had nearly emptied Frey's bank accounts, he had to sell fund shares each month — often at a steep loss — to raise money for her living expenses.

By the time Frey died in February 2004, Spalla's investment decisions had cost her about \$105,000 — 14% of the cash she had at the beginning of her conservatorship — judging from Daum's reports to the court.

Spalla, 37, of West Allis, Wis., said in an interview that he had made bad choices for his mother's clients but had slowed the losses by switching their money into annuities that

guaranteed a fixed interest rate.

"I've gone through the growing pains," Spalla said. "We did make a mistake going into mutual funds, but we didn't know that going into them."

Daum said she did not personally benefit by putting her clients' money in her son's hands and saw no conflict in it.

"I'm not so sure that nepotism is that bad.... I know the boy's ethics," she said in an interview. "I've been a manager. I know that you hire people because you can work well with them."

Court staff members called Mitchell's attention to the investments and the role played by Daum's son, but the judge took no action, records show.

Mitchell, who retired in 2003, said he did not recall the case. He said that as the lone probate judge in downtown San Diego, he handled as many as 100 cases a day.

"The volume that we had with one guy doing it, you probably missed some things," he said.

After Frey died last year, one of her heirs complained to the court that Spalla had bought the elderly woman a five-year annuity when she was 97 and in ill health. The investment would have been profitable only if Frey had lived at least six more years. She lived four months.

After Daum admitted making investments without court approval in another case, Judge William H. Kronberger Jr. stripped her of financial authority over four clients. He criticized her for hiring her son, whose commissions totaled more than \$44,000 in just four of the 13 cases he handled.

She was ordered to pay \$20,500 for the court's investigation but was not required to repay clients for their losses. Frey's beneficiaries decided against a legal battle with the conservator and settled with her for \$6,000.

"Who do you turn to?" asked Darleen Hellman, a friend of Frey's and one of her heirs. "This could have been your mother, and every time you turn around and ask questions, you get nowhere."

A Huge Caseload

Thirty years ago, California tried to put muscle into court oversight of conservators.

The state created a corps of court investigators whose duties include knocking on the doors of elderly wards and checking that they are alive and well treated and have food in the refrigerator.

They joined attorneys and examiners working for the probate courts who are supposed to comb through conservators' financial reports to make sure they aren't stealing or squandering clients' money.

Such steps made California a leader in protecting the rights and resources of the elderly. Over the years, however, they have been eroded by tight budgets and an explosion in the number of elderly people under conservatorship.

In 1995, 1,024 new conservatorship cases were filed in Los Angeles County. Last year, the number was 1,408, a 38% increase. The number of court investigators — 10 — is the same as it was a decade ago.

Those investigators have fallen far behind in making home visits, which are required a year after someone has been placed under a conservator and then every two years.

An estimated 3,540 people — nearly half the county's caseload — are overdue for a visit. That means it has been at least a year, and in many cases much longer, since a court representative checked on them.

In San Diego County, investigators are scrambling to get to 1,363 people who are past due for their visits. Two-thirds of them have not been seen in more than three years.

Probate attorneys and other court staff, buried in paperwork, can barely keep up with the financial reports in which conservators must account for wards' money.

"You can't believe the caseload that these probate attorneys and examiners are under," said Annette deBellefeuille, former head of the San Bernardino County Bar Assn.'s probate section. "It's enormous."

As a result, questionable payments have been rubber-stamped.

A conservator billed 83-year-old Margaret Francel for working 60 hours — in a single day. A Santa Barbara court overlooked the clerical error and approved the \$3,300 bill.

Los Angeles County's court lost track of who was looking after Barbara Daly, an 86-year-old suffering from dementia.

In the space of seven months, a judge appointed two conservators for Daly.

The conservators and the four attorneys who helped sort out the mess charged \$9,789. Who paid? Daly.

Courts are supposed to ensure that conservators file financial accountings on time and should discipline those who don't. Conservators must submit the reports a year after they are appointed and every two years thereafter.

But judges rarely enforce the rules, The Times found. In Los Angeles County, hundreds of reports were filed late. Even accountings that were five or six years late did not prompt the court to summon conservators and demand an explanation.

From 1997 to 2003, the Los Angeles court issued such orders just 23 times, records show.

"I'm shocked at that number," said Sandra Riley, the court's supervising probate attorney.

The county's former supervising Probate Court judge, Thomas W. Stoever, said the system's failings stemmed from too many cases and too few employees.

"Do the courts have the right resources to do a totally complete job? I don't think so," said Stoever, who retired last year. "To a large extent, the court must rely on the professionalism of the attorneys and the [conservators]."

Court's 'Eyes and Ears'

On a recent morning, Los Angeles County Probate Court investigator Frank Cowen crisscrossed the San Fernando Valley in his Volvo sedan, visiting five seniors in less than four hours.

At a Northridge home, a man in his 80s struggled to sit down in his armchair. His son had asked to become his conservator. Cowen stood before the man, asking simple questions.

"What time do you think it is?" he asked.

The man smiled blankly.

"Do you have a watch?" Cowen asked.

The man slowly turned his wrist, stared at his watch and laughed nervously.

At a Reseda nursing home, Cowen met a woman in her late 80s whose conservator was the Office of the Public Guardian, a county agency that takes care of the indigent. The woman, who had no family, had not been visited by a court investigator for three years.

She told Cowen that a deputy public guardian had seen her in recent days and brought extra clothes.

"We're the eyes and ears of the court," Cowen said afterward. "Sometimes we're the only people between the caregiver and the court."

This morning, Cowen's work was routine. No one complained about ill treatment. But Cowen, a 16-year veteran, said he worried about the cases he cannot get to on time.

"A person's bank account could be cleaned out; substantial damage could be done," he said. "We need to go out."

The county recently hired a part-time investigator to work on the backlog. Researching the cases, she found that, unknown to the court, more than 500 people on the waiting list had died.

Trust, Not Verification

A series of scandals in Southern California over the last decade exposed how vulnerable seniors are to unscrupulous conservators. Tellingly, in each case, wrongdoing was unmasked not by the courts but by outsiders.

Rodney Swanson, a Tarzana conservator, looted his clients' assets for years.

His case laid bare a gap in oversight that persists today: Courts do not try to verify conservators' accountings by demanding canceled checks, receipts or other supporting documents. Instead, they take conservators at their word that the reports are truthful and complete.

Swanson's undoing came in 1994, after one of his clients died and he sent a check to a lawyer who was helping wrap up her estate. The \$125,000 check was supposed to represent almost all the money Sylvia Gray left behind.

It bounced.

The lawyer, Susan A. Mitchell, demanded that Swanson turn over his bills and receipts. She discovered that he had taken \$156,000 from Gray's bank accounts without court approval. Swanson shuffled money among his clients' accounts to disguise his thefts.

"He could probably have kept that game up for a lot longer had he not gotten so sloppy," Mitchell said.

Prosecutors accused Swanson of plundering the assets of 55 elderly clients. He pleaded no contest to grand theft and guilty to tax evasion and was sentenced to five years in prison and ordered to repay \$1.1 million.

In a recent interview, Swanson, now a customer service representative, said the court could easily have found out what he was up to.

"They just don't want to deal with it," he said. "If anyone had investigated, it would have been obvious."

Riverside County's probate judge in Indio did investigate suspicions about one conservator. Yet despite mounting evidence of Jeffrey James Walker's wrongdoing, the judge didn't stop him.

Walker, a former Green Beret, opened a Palm Springs conservatorship business in 1995, a year after filing for bankruptcy. Problems soon surfaced.

A nursing home complained that he hadn't paid an elderly ward's bills for two years. Riverside County Superior Court Judge Graham Anderson Cribbs discovered that Walker had taken \$48,885 from a 90-year-old client and lent it to a business partner.

In a 35-page report in which he assessed his options, the judge listed three: "Do nothing. Remove Walker from this case forthwith. Remove Walker from ALL cases he is involved with."

Cribbs grilled Walker about the allegations but allowed him to continue as conservator for six elderly women.

In January 2000, Walker was charged with stealing \$57,000 from Stephani Kraus, an 85-year-old Ukrainian immigrant.

When Walker agreed to plead guilty, he marched into the courtroom of none other than Cribbs, who had moved to criminal court five days earlier.

"Obviously," Cribbs said, "one of the terms and conditions under any such matter is that he is no longer to act as a private conservator in the probate field in this state, period."

Yet Walker remained a conservator. Only when a local newspaper reported his guilty plea did the Probate Court strip him of his remaining cases. He later pleaded guilty to stealing from four other clients and is serving a 16-year prison term.

Cribbs, who is still on the bench, did not respond to requests for comment.

"I think it was a case of paralysis," said Manuel Garcia, a forensic accountant who helped the district attorney prosecute Walker.

"The judge is the one who should have taken the action and done something.... I think we need more angry judges."

'Very Little Scrutiny'

It took a crusading attorney from Northern California to initiate action against Bonnie Cambalik, who ran Riverside County's largest conservatorship business.

For years, William H. Sullivan, the county's supervising probate judge, ignored complaints from relatives and warnings from his own court staff that money vanished and jewelry disappeared when Cambalik took over.

Frustrated relatives and friends of Cambalik's wards sent boxes of documents to a group

of elder-rights advocates in San Francisco. Among those who looked at them was local attorney Barbara Jagiello.

Disturbed by what she saw, Jagiello flew to Riverside and copied thousands of court papers from Cambalik's cases. Back home, working at night at her dining room table, she unearthed what appeared to be widespread misconduct.

"I realized how it could be a closed circle," Jagiello said. "If the individuals aren't good, there's very little scrutiny."

Tipped off by Jagiello, district attorney's investigators raided Cambalik's office. They found that she had hidden investments, stolen jewelry and drained bank accounts.

Prosecutors said Cambalik stole more than \$1 million. She pleaded guilty to embezzlement and perjury and is serving a 26-year prison term.

Sullivan was also ensnared in the scandal. Jagiello discovered that he had bought a two-bedroom bungalow from an elderly man whose conservatorship he presided over.

After retiring, Sullivan pleaded guilty to seven misdemeanor counts of financial conflicts involving the house purchase and other misconduct as a judge. He was fined \$27,000.

An Arcane World

Probate Court is a legal backwater, the least glamorous branch of any courthouse.

"No one wants to do it," said Mitchell, the former presiding judge in San Diego. "It's dry and uninteresting, and it's only fuddy-duddy lawyers without color to their skin who do it. That's the public perception of probate law."

The reality is an arcane world of trusts, wills and conservatorships that breeds familiarity among judges, attorneys and conservators. In this atmosphere, the elderly can feel powerless.

Harry Cassel, 80, arrived in Los Angeles' main Probate Court in 1996 with his lawyer, Allan P. Leguay, to fight attempts by his family to have a professional conservator appointed for him.

Relatives and friends insisted that a caretaker was taking advantage of Cassel, who suffered from Parkinson's disease.

Cassel told the court that if he had to have a conservator, he wanted a say in who it was. That was why he had brought along Leguay.

Judge Robert Letteau, then the county's presiding probate judge, said he wanted someone independent to assess the situation. He appointed a second attorney, Thomas B.

McCullough Jr., to represent Cassel and advise the court whether he needed a conservator.

Letteau and McCullough had worked together at the same small law firm for four years in the 1970s.

McCullough recommended a conservator whom Cassel did not want. Letteau made the appointment anyway — without allowing Cassel a jury trial to fight the move. By law, Californians are guaranteed the right to oppose a conservatorship before a jury.

Cassel appealed, using his own lawyer: Leguay. Letteau authorized McCullough to oppose the appeal.

So Cassel had two attorneys on opposite sides of the case and was paying for both of them.

In May 1997, an appeals court overruled Letteau. It criticized him for relying too heavily on McCullough's recommendation and violating Cassel's rights. The court also said it was a conflict of interest for McCullough to oppose his own client's appeal.

Despite the higher court's reversal, Letteau ordered Cassel to pay McCullough more than \$40,000 for his work — nearly a third of it for time spent working against Cassel's successful appeal.

The legal fight ended when Cassel, given the choice he had wanted all along, agreed to have his son and son-in-law act as his conservators.

He died in 2000. Bills from all the attorneys involved swallowed up \$400,000 of Cassel's estate.

Letteau, who now works for a private arbitration firm, defended his conduct. In an interview, he said he was concerned that Cassel had not been mentally fit to choose his own lawyer.

"Sometimes you make decisions that intrude on that person's civil rights," he said, "but you're doing it to protect that person."

Robert L. Conn, who replaced Leguay as Cassel's lawyer in 1997, had a different view.

"The person who took it in the shorts was Harry Cassel," he said. "All Harry ever asked for was a voice. That's all he wanted — a voice in who would be his conservator."

An Underused Tool

Despite the embezzlement scandals in Riverside and Los Angeles counties, proposals to license and regulate professional conservators — most of them supported by conservators themselves — have foundered in Sacramento. Legislators have rejected stringent

enforcement, citing worries about cost and big government. The last three governors have each vetoed more-modest measures.

One bill that did make it into law gave courts a new tool: a statewide registry to track abusive and inept conservators.

Previously, judges could look only at files in their own counties for a history of a conservator's work. Rogue operators could evade accountability by crossing county lines.

Under the law, passed in 1999, probate courts must notify the state each time a conservator resigns or is removed from a case. Courts are also supposed to forward substantiated complaints against conservators.

Of the state's 58 counties, only two — San Diego and Los Angeles — have reported removals.

California probate courts have accepted hundreds of resignations but have reported none to the registry, according to the attorney general's office, which runs the database. Nor have they reported even a single complaint.

Judges must consult the online registry before appointing a conservator. But only 13 counties have applied for passwords.

"The whole theory was to protect [seniors] against these bad actors, and they're not being protected," said Bob Hertzberg, the former Assembly speaker who wrote the law.

In April 2000, three months after the launch of the registry, Riverside County Superior Court Judge Stephen D. Cunnison ruled that conservator Ardis Enright had neglected her responsibility to an 84-year-old with Alzheimer's disease "to a point verging on financial mismanagement."

Neither Cunnison nor his court staff notified the registry.

A year and a half later, Enright was looking for clients in neighboring San Bernardino County. Without access to the registry, Judge Michael A. Smith appointed her to look after 88-year-old Elisa Taylor.

Sixteen months later, Enright was forced to step down when Taylor's attorney complained she had not taken the most basic steps to protect the elderly woman's assets.

Last year, a San Bernardino County judge fined Enright more than \$18,000 for neglecting Allen Caraballo, a 28-year-old man suffering from brain damage. She no longer works as a conservator.

Case closed? Not quite.

The court never reported Enright to the registry.

Times researcher Maloy Moore contributed to this report.

*

(BEGIN TEXT OF INFOBOX)<252>Planning ahead

To avoid a conservatorship, or to ensure that someone you trust is put in charge of your affairs, attorneys recommend one or more of the following steps.

A durable power of attorney designates someone to manage your finances. It does not have to be drafted by an attorney, but it must be notarized if real estate is involved. If you don't plan on using an attorney, ask for a "statutory" form at stationery stores or look for it on the Internet.

An advance healthcare directive authorizes a friend or loved one to make medical decisions for you. A kit for creating one can be ordered through the California Medical Assn. at <http://www.cmanet.org>.

An advance nomination designates someone to serve as your conservator if a court deems one necessary.

A revocable trust, also known as a living trust, designates an individual to manage your assets outside court jurisdiction while you are alive and after you die, thereby avoiding the cost of probate.

Be sure to inform the people whom you have designated to make decisions for you. Give them copies of documents and tell them where originals are filed.

Source: California Medical Assn.; Irell & Manella; Mitchell A. Karasov; American Bar Assn.

*

(BEGIN TEXT OF INFOBOX)

A troubled system, modest reforms

Periodic embezzlement scandals have sparked proposals for tighter oversight of California's professional conservators. But reform measures have struggled in Sacramento.

*

Conservators sentenced to prison:

Rodney P. Swanson, a Tarzana conservator, was suspended in 1994 after he bounced a \$125,000 check from a client's account. He plundered the estates of 55 clients, authorities said. In 2001, he was sentenced to five years in prison for grand theft and tax evasion and was ordered to repay \$1.1 million.

*

Jeffrey James Walker, a Palm Springs conservator, was prosecuted twice for stealing from his elderly clients. In 2000, he pleaded guilty to embezzling \$57,000 from one, but continued to work as a conservator. He later pleaded guilty to stealing from four other clients. He was sentenced in 2003 to 16 years in prison.

*

Bonnie Cambalik, who received 300 court appointments as Riverside County's busiest conservator from 1986 to 1999, stole more than \$1 million in cash, jewelry and other valuables from clients. She pleaded guilty to embezzlement and perjury and received a 26-year sentence.

--

Fate of reform efforts:

1988- Gov. George Deukmejian vetoed a bill to establish a licensing system for professional conservators.

*

1989- Deukmejian vetoed a bill providing \$50,000 to study the scope of abuses by for-profit conservators and suggest corrective measures.

*

1996- A proposal to regulate and set professional standards for conservators was watered down to require merely that they protect their wards' rights and dignity. Gov. Pete Wilson vetoed the bill.

*

1999- Gov. Gray Davis signed a bill creating a statewide registry for probate courts to track inept and abusive conservators.

*

2000- Gov. Gray Davis vetoed a \$100,000 study of potential regulation of conservators. The provision was all that remained of an ambitious proposal for licensing and regulation.

*

2004- Gov. Arnold Schwarzenegger signed a bill directing the state Judicial Council to develop educational requirements for professional conservators effective Jan. 1.

*

Sources: Times reporting

*

About this series

Caring for the aged and infirm was once a family affair. Now, it is a business. In documenting this change, reporters Robin Fields, Evelyn Larrubia and Jack Leonard and researcher Maloy Moore examined records of more than 2,400 cases handled by California's professional conservators since 1997. They also conducted hundreds of interviews — with probate lawyers, judges and independent experts as well as people under conservatorship and their loved ones.

Tuesday: One conservator's troubled career.

Wednesday: L.A.'s public guardian — a canceled promise.

*

On the Web

*For previous parts of this series, and to see a photo gallery, share your experience or ask the reporters a question, visit latimes.com/conservators**PART THREE***

GUARDIANS FOR PROFIT

Missing Money, Unpaid Bills and Forgotten Clients

Anne L. Chavis, a churchgoing nurse, had sweeping power over wards' lives. It took years for the VA and others to rein her in.

By Evelyn Larrubia, Jack Leonard and Robin Fields
Times Staff Writers

November 15, 2005

At the end of the month, her money dwindling, Carolyn Osterhout would survive on

peanut butter sandwiches.

She had trouble paying for both the Prozac she took for depression and the prescription spray she needed for her asthma. For a time, she went without either.

The widow of an Air Force veteran, Osterhout was not penniless. She had money in the bank and received veterans benefits of more than \$1,000 a month.

The source of her troubles was Anne L. Chavis, the court-appointed guardian who controlled her money and was supposed to look after her.

Chavis was late paying the rent on Osterhout's apartment in Colton. She was late sending a monthly living allowance. She was late paying for her medical insurance, which at one point was canceled.

"I just felt like I wanted to lay down and go to sleep and die," recalled Osterhout, 62.

For more than a decade, the Department of Veterans Affairs and California's probate courts entrusted Chavis with dozens of vulnerable adults, most of them disabled veterans and their survivors.

She exploited and neglected many of them with seeming impunity — conduct that highlights the flaws in a broken system.

While supposedly under the supervision of the VA and the courts, Chavis often failed to pay her clients' bills and refused to tell them what she was doing with their money, interviews and records show.

She arranged to buy the home of one elderly client at a discount — while pretending that someone else was the real purchaser.

She helped a business associate inherit the estate of another client — a senile, nearly blind World War II veteran.

She once paid a lawyer with money she took from the bank account of an 80-year-old widow.

When VA officials and the courts finally demanded answers after years of inaction, they discovered that Chavis had failed to account for more than \$1 million of her clients' money.

Courts have ordered her to come up with the funds.

To date, she has not paid a cent.

Chavis, 72, denied any wrongdoing and said she did her best for her clients. "When I

started doing conservatorships, I wasn't that smart," she said in an interview. "There were probably a lot of things that I overlooked or didn't do."

She said she lost track of her wards' finances after her bookkeeper died in 2002 and her longtime lawyer, who helped her run her practice, lost his license a year later. Nevertheless, Chavis said, "I don't want to blame nobody for something I should have been on top of myself."

Chavis said she loved her clients, many of whom suffered from mental illnesses. She visited them regularly, she said, and always returned calls that seemed important.

"Gee whiz, I think I've done a good job with the type of clients that I had and the amount that I had," she said. "It's really crazy, but I really care about those guys."

She vowed to account for all of their money.

"I'm going to pay it," she said. "The Bible says you have to pay what you owe. And, if I owe it ... I'll sell my house."

A New Career

Chavis has a smooth, round face and kind brown eyes. A devout Baptist, she often closes conversations with a pat of her hand and a warm "God bless you."

Born in North Carolina, she moved to Los Angeles in the 1950s and raised seven children while juggling different jobs. She worked as a nurse's aide at what is now County-USC Medical Center and later became a licensed vocational nurse.

She took a second job at the California Department of Transportation, wearing a hard hat on road crews before moving to a desk job. After a day at Caltrans, she often pulled a night shift as a nurse.

Moonlighting at a Pico Boulevard nursing home in 1984, she filled in patients' charts with work she had not done. Investigators said she wrote fake blood sugar readings for eight diabetics and recorded insulin doses that she never administered to five of them.

She then put on a patient gown and slippers and curled up to sleep in a hospital bed, according to a complaint by state regulators. A state nursing board placed her on probation for two years.

In 1988, Chavis filed for bankruptcy protection. Her car had been repossessed, she owed \$7,100 on her credit cards and a mortgage lender was about to foreclose on her home.

Despite these difficulties, she helped found Victory Institutional Baptist Church in Hawthorne. After Sunday services, she served refreshments from the back of her Jeep Cherokee.

"They called it Cafe Chavis," recalled Pastor Richard Williams, who has known her for 30 years. "This church wouldn't be here without her."

Williams said the complaints from Chavis' clients did not square with the woman he knows. "I don't buy it," he said. "If I needed a conservator, despite what you've told me, I'd trust her with my assets."

As she was helping found the church, Chavis moved into another line of work. She turned her three-bedroom home in the West Adams district into a boarding house for veterans.

State inspectors who visited in 1990 reported finding soiled rooms with torn, dirty linens. But Chavis made a favorable impression on a VA employee who dropped in to check on a boarder. He suggested that she become a conservator.

"What is that?" Chavis remembered asking. "What do you do?"

No Background Check

The VA was — and is — constantly looking for caretakers for veterans too sick to care for themselves.

For some, the VA appoints fiduciaries, who collect veterans' benefits and pay their bills. For those with considerable savings or large benefit checks, the government wants an added layer of protection and seeks a conservator.

Conservators are appointed and supervised by probate courts and draw their fees from their clients' assets. They are required to file detailed accountings at least every two years, showing what they are doing with their wards' money.

John Paxson, head of the VA's fiduciary unit in 1990, said a subordinate recommended Chavis as someone who could be trusted.

"She was presented as a very religious person and a retired nurse who really, really cared for veterans," he recalled.

Had VA officials conducted a background investigation, they might have learned about Chavis' bankruptcy and the disciplinary action by the nursing board. They did not.

Instead, with Paxson's approval, they made her fiduciary for three veterans during a trial period, then sent her more cases. Paxson soon left the fiduciary unit for other assignments and did not encounter Chavis again for years.

Chavis, meanwhile, got additional referrals from outside the VA and began securing court appointments as a conservator.

One of her first clients was an 89-year-old woman living in a nursing home. Her most valuable asset was her house. It was vacant when Chavis took charge of her affairs. It did not stay that way for long.

An Untruthful 'No'

Helen Smith moved to Los Angeles from Kentucky as a young woman. She and her late husband, Luddie, worked laundry and construction jobs to buy a modest white bungalow on Denver Avenue in South Los Angeles.

By 1993, Smith was in the Marlinda nursing home in Lynwood, suffering from dementia, with no one to manage her affairs.

Chavis said she learned about Smith while chatting with an elder-care investigator in a supermarket checkout line. In August 1993, she filed a petition with Los Angeles Probate Court to become Smith's conservator.

She was required to obtain a surety bond. The application asked whether she had ever filed for bankruptcy.

Had Chavis answered truthfully, her career might have ended right there. Instead, she marked "no."

Chavis allowed her son, Orlando Johnson, then 29, to live in Smith's house rent-free. She paid the utility bills from Smith's bank account.

In the summer of 1994, Chavis sought a restraining order against her son, whom she described as a paroled murderer and drug user. In court papers, she said he had threatened her.

She also said he was stealing Smith's belongings.

That fall, Chavis asked the Probate Court for permission to sell the house to pay Smith's nursing home bills.

She said she had found a buyer willing to pay \$85,500. That was \$9,500 less than a court-appointed appraiser had said the house was worth.

Another unusual feature of the sale was that Smith was lending the buyer 20% of the purchase price.

Also surprising was the identity of the buyer. Chavis swore in court papers that it was her lawyer, C. Brian Smith.

In fact, it was Chavis herself.

In an interview, she acknowledged that her lawyer agreed to serve as a straw purchaser because she could not obtain a mortgage. Chavis said that she, not Brian Smith, made the mortgage payments.

"I couldn't qualify for it," she said. "My debt ratio was too high."

Brian Smith declined to comment.

In explaining the bargain price, Chavis said no buyers had come forward, though the house had been listed for months.

Neighbors, however, said they saw no for-sale sign, no visits by prospective buyers or any other evidence that the property had been on the market.

Chavis gave the court a document consenting to the sale, purportedly signed by Vatie L. Rogers, identified as Helen Smith's cousin and heir. Chavis provided Rogers' address in South Los Angeles.

Contacted by The Times, Rogers, 73, said she did not know Chavis or Helen Smith and knew nothing about the Denver Avenue house.

Shown a copy of the consent form, she said: "That's not my handwriting, and I never signed that paper."

Rogers, a retired nurse, was puzzled as to how her name had turned up in connection with the sale. Then she remembered having signed up for a Red Cross first-aid class at a Baptist church.

The instructor was Anne Chavis.

'It Was Miserable'

Gregory Maynus was a Marine at Camp Pendleton in the late 1970s when he began hearing voices.

Diagnosed with schizophrenia, he was living on a disability pension in San Bernardino in 1996 when Chavis knocked on his door and said the VA wanted her to become his conservator.

"We talked about Jesus Christ," he recalled. "We did pray together."

Chavis moved Maynus from his apartment to a run-down two-story boarding house on West 37th Street in South Los Angeles. It was called At My Home.

Verlene Cameron, who runs the facility with her mother, said in an interview that Chavis

helped her set it up and taught her to recruit disabled veterans.

Chavis also served as administrator of the home during a period when Cameron lacked the necessary credentials.

Maynus' room cost him \$1,300 a month, three times what he had been paying in San Bernardino.

He complained that Chavis neglected his needs and begrudged him his own money, providing a living allowance of just \$10 a day.

Having lost his spleen to cancer, he needed regular checkups at the VA hospital in Loma Linda. In a sworn court declaration, he said he missed several appointments with his oncologist because Chavis wouldn't give him bus fare.

Maynus also wanted to see his seven children, who were in San Bernardino, 60 miles away. Chavis refused to let him move back or buy a car so he could visit them, he said.

"It was miserable," said Maynus, 46. "I felt ashamed. I felt like I wasn't a parent, like I wasn't a dad."

In January 1997, he found an apartment in Loma Linda with help from his mother and daughter. Maynus said Chavis would not give him \$20 to pay for a credit check, and he lost the apartment.

Two months later, he arranged to move into the home of a Rialto minister, a man he described as "my second father." Chavis thwarted him again, Maynus said, refusing to provide \$150 to move his belongings.

In August 1997, Maynus' mother died. He went to Loma Linda for the funeral and told Chavis he was not going back to At My Home. She finally relented and allowed him to rent an apartment, he said.

Maynus hired a lawyer and asked the Probate Court to remove Chavis as his conservator. In early 1998, she agreed to step aside, and in return Maynus dropped his demand for an accounting of his money.

Chavis denied mistreating Maynus and said many of his complaints stemmed from drug use. She said he had been evicted from his San Bernardino apartment and that At My Home was the only place that would take him.

"I didn't bring him to Los Angeles because I wanted to," Chavis said. "I had nowhere else to put him."

Maynus said he has used drugs but not while he was at the boarding house.

Around the time Maynus left, other Chavis clients sought to break free of her control, complaining that she ignored their calls and was mishandling their money. In many of her cases, she failed to file required financial reports with the VA or the court. Of those she did file, most did not account for all the money she had received.

But the VA continued to send her clients, and the courts kept approving new conservatorships.

By 2001, she was conservator for 27 people, nearly all of them veterans. She was overseeing the government benefits of two dozen other veterans as a fiduciary. In all, she was managing at least \$1.4 million in assets and \$800,000 a year in benefits.

Dubious Inheritance

Louis P. Williams, a Navy veteran and former longshoreman, was 79 and nearly blind. His dementia was so advanced that a judge had stripped him of the right to vote. His kidneys were failing.

He was living at the Hayworth Terrace boarding home for the elderly in the Fairfax district when Chavis became his conservator in 1999.

She placed him in the care of Verlene Cameron, the operator of At My Home. Court records show that Chavis paid the boarding house as much as \$2,600 a month in rent from Williams' bank account.

Cameron said Williams was actually living in her private home on Mullen Avenue in Mid-City.

Williams liked to go on drives to the beach and watch the Rams on television, she said. He went to a clinic several times a week for kidney dialysis.

In September 2000, Cameron composed a will for Williams on her computer.

"I MR. WILLIAM WOULD LIKE TO MAKE VERLENE CAMERON MY BENIFACARY OF MY MONEY; SHE IS TO MAKE ALL DECISION PLANNING MY BURIAL, THANK YOU," it said.

Cameron said that Williams told her he wanted to leave his estate to her and that Chavis suggested she draft a will and have him sign it.

"I asked him, 'Are you sure you don't want anything else to be done with this money? Are you sure you don't have kids out there?' " said Cameron, 40. She said she "kind of felt uncomfortable" until she learned that Williams had no surviving children.

"I know that he loved me like a daughter," Cameron said. "This is a man who for five years I got him up, dressed him, laughed with him, watched football with him."

Chavis sent her bookkeeper to notarize the one-page document, according to both women.

The will bears two scrawled signatures. One appears to be Williams' full name, the other his last name.

The document is dated Sept. 21, 2000, but was notarized on Sept. 20, 2000.

Chavis said she spoke to Williams before he signed the will and was satisfied that it reflected his wishes. "He said, 'She takes good care of me,' " Chavis recalled.

Chavis did not consult Williams' relatives about the will. They learned about it when a Times reporter called, seeking comment.

"That's some fraud," said Idell Alexander of South Los Angeles, Williams' cousin. "Louis was very sick. There's no telling what they had him sign."

After Williams died in January 2002, Cameron filed the will in Probate Court, represented by Chavis' lawyer, C. Brian Smith. Cameron was appointed administrator of Williams' estate.

Chavis submitted a final accounting of Williams' assets and, with court approval, paid herself and her lawyer, Smith, \$12,500 in fees.

Chavis was required to turn over the rest of Williams' estate to Cameron. After nearly two years, Chavis still had not made full payment.

In the end, she kept more than \$15,000, a court-appointed lawyer found.

Cameron decided not to pursue that money and asked the court to award her what was left of the estate: \$61,593.

Superior Court Judge Aviva Bobb, newly arrived in Probate Court, approved the distribution in February, rejecting complaints from Alexander and the VA that the will looked phony.

Last month, after The Times submitted questions to her about the case, Bobb stayed her ruling and said she would hold a hearing to determine whether Cameron should be allowed to inherit the money.

'A Real Good Front'

Chavis might still be accepting new clients if not for a burly Vietnam veteran and his well-connected lawyer.

Patrick Murphy was 18 when his Marine unit came under fire in Quang Nam province in

1968. A grenade explosion shredded his legs. Today, he gets around on crutches and a motorized scooter. The shrapnel in his body sets off airport metal detectors.

Murphy was at the VA hospital in Loma Linda, suffering from post-traumatic stress disorder, when Chavis became his conservator in July 1999.

"She put on a real good front," Murphy, now 55, said in an interview. "She can look you in the face and you can think this woman is really out to do the best for you."

Murphy said Chavis was late paying his bills and rarely came to see him. When he asked her to account for his money, she stopped returning his calls, he said.

"I'd be in turmoil," Murphy said. "You feel like this piece of garbage and anyone can walk all over you."

He vented his frustration during group therapy at the VA hospital, complaining about "his conservator ignoring his needs, that she never responds to his call," according to a therapist's summary.

In 2000, he got married and asked the VA and the Social Security Administration to stop sending his monthly checks to Chavis. He wanted his wife, Guadalupe, to collect the money.

In response, Chavis wrote federal officials that Guadalupe was unfit to manage Murphy's finances and had bounced a \$6,017 check at a car dealership where the couple bought a used minivan.

The VA took Chavis at her word and refused to send Murphy's checks to his wife.

In June 2001, Murphy's court-appointed lawyer, E. Joan Nelms, petitioned the court to end the conservatorship. She said Chavis' story about the bounced check was a "blatant falsehood" and produced a letter from the car dealership that said Murphy and his wife had done nothing wrong.

The dealership did have complaints — about Chavis. She failed to make installment payments on the minivan, as she had promised, the dealer's finance director wrote.

Judge Michael A. Smith ended her conservatorship over Murphy, calling her conduct "unwarranted and unprofessional."

Smith ordered Chavis to file a full accounting of Murphy's money. Months passed and she failed to do so. Nelms had taken a new job, so the judge appointed another lawyer for Murphy.

Roy H. Nierman, a Navy veteran, was a member of the Republican National Committee, and he had dealt with Chavis before. He couldn't believe the VA and Southern

California's probate courts were still putting disabled veterans in her hands.

The Bureaucracy Stirs

Two years earlier, Nierman had been involved in a legal battle with Chavis over who would serve as conservator for Michael Dolan, a veteran suffering from schizophrenia. Dolan's mother wanted to manage his affairs. So did Chavis, his VA-appointed fiduciary.

Nierman, representing the mother, discovered that Chavis had collected \$21,000 of Dolan's money but had not paid his bills. He complained to U.S. Rep. Jerry Lewis (R-Redlands), a former chairman of the House subcommittee overseeing the VA. The dispute was resolved without Lewis' involvement: Dolan's mother became his conservator, and Chavis returned his money.

In 2002, now representing Murphy, Nierman sent the congressman another letter. "It appears the problem with Anne L. Chavis has not disappeared," he wrote. "Anne Chavis is again refusing to account for the funds she has expended on behalf of a VA recipient."

Nierman expressed dismay that the VA "continues to appoint her as [fiduciary] for veterans in the Inland Empire area."

A Lewis aide called the VA in Los Angeles, and at last the bureaucracy began to stir. An investigation found that Chavis had failed to submit accountings for many of her clients, and the L.A. regional office had let her slide.

John Paxson was brought in to clean up the mess. He was the VA official who, back in 1990, had approved Chavis' first cases. A slim man with a mop of graying hair, Paxson, 57, had earned two Purple Hearts and two Bronze Stars in Vietnam.

He called Chavis and demanded to know why accountings for more than 50 of her VA clients had not been filed. Chavis said her bookkeeper had died recently, but she would quickly pull the paperwork together, Paxson recalled.

He gave her a deadline, then extended it twice when she pleaded for leniency, citing health problems.

"I even let her stall me," Paxson said in an interview. "It was misplaced compassion."

The promised reports never materialized. Fed up, he barred Chavis from receiving VA benefits on behalf of any veterans beginning in October 2002.

Chavis was also behind in filing financial reports with the probate courts in her conservatorship cases. VA officials reasoned that judges might succeed where they had failed. They asked the Los Angeles court to order her to produce reports in eight cases. A hearing was set for Jan. 24, 2003.

Chavis did not show up. Alan Achen, a VA lawyer, accused her of dodging the agency's process servers.

A judge postponed the hearing until March. By then, the VA had decided to give Chavis yet another chance. Chavis' lawyer, C. Brian Smith, told the court that she would file all the overdue accountings in 45 days.

"Is there a point to ordering Ms. Chavis back?" the judge asked.

"I don't think so, your honor," Achen replied. "I think she's got the message."

The next day, Smith's license was suspended. The state bar said he had stolen \$274,000 from clients in cases unrelated to Chavis. He was later charged with grand theft, forgery and perjury and has pleaded not guilty.

The 45-day deadline came and went with no reports from Chavis.

She hired a new attorney, Billy Hall Hairston, and wrote him a \$1,750 check. It was drawn on the bank account of one of Chavis' wards, 80-year-old Rheajean Redmon.

Redmon, widow of a soldier killed in the Korean War, suffered from dementia and lived in a nursing home in Joshua Tree.

"I'm just flabbergasted," said her daughter, Penny Waite. "I'm astounded that she has the audacity to use my mother's funds to pay her bills."

Pulling the Files

By February 2004, the VA had finally had enough. Three agency officials appeared at the Hill Street civil courthouse in downtown Los Angeles and asked to speak privately with Thomas W. Stoeber, then the supervising probate judge.

The three were ushered into the judge's second-floor chambers. They said they had grave concerns about Chavis' cases and what was happening to her clients' money.

"After they left," said Sandra Riley, the court's supervising probate attorney, "we started pulling the files."

Court officials discovered that Chavis had not filed financial accountings, inventories of clients' assets or other records in 27 cases. This was a serious breach. Conservators are required by law to keep the courts informed of their activities; the courts are supposed to make sure they do.

"I honestly can't tell you why this happened," Riley said. "I wish I [could] because we would do something about it."

In March 2004, Stoever summoned Chavis to a hearing. Her case files were piled on a metal cart and wheeled into Department 11, his wood-paneled courtroom.

Scanning the room, Stoever saw several of his staff members and representatives of the VA. He did not see Chavis.

"Alrighty, bench warrant issued for Anne Chavis," Stoever said.

Chavis appeared two days later. Stoever ordered her to file the accountings by May and attend another hearing in June.

"We're going to do what we can to put a full rein on the conservator's actions in this and other cases," Stoever said.

Chavis missed the May deadline.

She was busy, but not with her clients' finances. She transferred to her daughter, DeLisa Easter, the Denver Avenue home she had secretly bought from Helen Smith back in 1994. A month later, Easter sold the house for \$260,000, three times what Chavis had paid.

Chavis did not show up for the June hearing. Again, Stoever issued a warrant for her arrest.

Five weeks later, she appeared unexpectedly in Department 11 with a letter for the judge. He refused to accept it and ordered his bailiff to arrest her.

She spent the day in a cell at the sheriff's Inmate Reception Center before posting \$10,000 bail.

At a hearing on Sept. 28, 2004, Stoever asked her to explain her behavior.

"I had a stroke and another stroke. A lot of stuff was going on with me as far as my diabetes," Chavis said in a barely audible voice.

"I just got overwhelmed."

Stoever ended her career as a conservator that day. He called case after case and ordered her removed in each one. It took more than an hour.

Under order to repay more than \$1 million, Chavis has filed reports accounting for some of the VA benefits and other income she collected on her clients' behalf. But nearly \$750,000 remains unaccounted for.

Bonding companies that insured her clients' money have paid less than \$90,000, settling cases for a fraction of the missing money.

To recover some of their losses, the companies are searching for Chavis' bank accounts and other assets. Gary Wayne Burger, a lawyer for two of the firms, said the insurers had determined that they could not lay claim to the real estate she transferred out of her name.

Carolyn Osterhout is among the former wards still scarred by their experience with Chavis.

With help from a friend, she managed to get free of Chavis' control after seven years under conservatorship. But her lawyer's review of financial records found that \$31,706 of Osterhout's money was missing.

In 2003, a judge ruled that Chavis had "misappropriated" the money and ordered her to repay it. She has yet to pay a penny.

*

Times researcher Maloy Moore contributed to this report.

*

(BEGIN TEXT OF INFOBOX)

Planning ahead

To avoid a conservatorship, or to ensure that someone you trust is put in charge of your affairs, attorneys recommend one or more of the following steps.

***A durable power of attorney** designates someone to manage your finances. It does not have to be drafted by an attorney, but it must be notarized if real estate is involved. If you don't plan on using an attorney, ask for a "statutory" form at stationery stores or look for it on the Internet.*

***An advance healthcare** directive authorizes a friend or loved one to make medical decisions for you. A kit for creating one can be ordered online through the California Medical Assn. at <http://www.cmanet.org> .*

***An advance nomination** designates someone to serve as your conservator if a court deems one necessary.*

***A revocable trust**, also known as a*

***living trust**, designates an individual to manage your assets outside court jurisdiction while you are alive and after you die, thereby avoiding the cost of probate. Trust documents must be filed with your bank and other financial institutions.*

Be sure to inform the people whom you have designated to make decisions for you. Give

them copies of the appropriate documents and tell them where the originals have been filed.

Sources: California Medical Assn.; Irell & Manella; Mitchell A. Karasov; American Bar Assn. PART FOUR

GUARDIANS FOR PROFIT

For Most Vulnerable, a Promise Abandoned

L.A.'s public guardian, stripped of county funding for over a decade, turns away many in need.

By Robin Fields, Evelyn Larrubia and Jack Leonard
Times Staff Writers

November 16, 2005

Pearl Inferrera had \$70 to her name when she arrived at Providence St. Joseph Medical Center. At 83, she had fallen in her apartment and broken her wrist. Doctors diagnosed her with dementia and chronic anemia.

Inferrera's meager circumstances and failing health made her the archetypal client for the Public Guardian's Office, Los Angeles County's conservator of last resort.

But Inferrera's treatment over four years as a county ward shows the agency's painful decline.

The public guardian once embodied a commitment to protect elderly men and women no longer able to care for themselves. It now represents something quite different: a broken promise to these fragile adults.

Until September, when the Board of Supervisors allotted \$1.1 million to expand the agency's staff, the nation's largest county had not spent a penny of its own money on its program for the elderly since 1990.

It was the only such program in Southern California — and one of the few in the state — abandoned in this manner by elected officials.

The agency now rejects more than four of five aged citizens referred for help. Months or even years have passed before it acts — at least 660 seniors have died since 1998 waiting for the public guardian to decide whether to assist them.

For the comparatively few whose cases are accepted, the office's swamped staff has trouble meeting their basic needs. Seniors have had to do without eyeglasses, hearing aids and dentures. One elderly woman lost much of her small estate when the agency allowed her house to slip into foreclosure.

Three years ago, the public guardian had a waiting list of more than 300 senior citizens, each one in or near a crisis.

It is down to 15 now — but not because more people are being served.

After The Times requested information about the backlog, the agency adopted a new policy: It started rejecting people faster.

"Can we meet the need?" said Deputy Director Christopher Fierro, the office's top administrator. "No."

Inferrera was a divorcee who lived alone in a small Burbank apartment complex before she was hospitalized.

The public guardian asked a Los Angeles County Probate Court for authority over her affairs in August 1998, saying alcoholism and increasing confusion had left her unable to return to independent living.

As Inferrera's conservator, the agency was responsible for managing her money and seeing to her daily needs.

Its performance fell short.

Although a doctor concluded that she did not need to live in a locked nursing home, court records show, the public guardian obtained court authority to put her in one anyway. The agency then moved her to a Pasadena facility where many of the patients had serious mental illnesses.

One attacked Inferrera, battering her head with a cane.

Her injuries were minor, but the incident left her traumatized, said Lorraine Woodburn, her grand-niece.

"She was like a whimpering puppy," Woodburn said. "Very sad, very frightened and very alone."

Woodburn helped Inferrera find a board-and-care home she preferred, but a year later, her new landlord sued to evict her: The public guardian hadn't paid her rent.

Fierro said the agency had done its best for Inferrera and that her unpaid rent stemmed from a holdup involving her Social Security benefits, not inattention.

But attorney Trikkia Keel, Inferrera's court-appointed lawyer, told a judge the agency had neglected her client.

"She begins to sob each time she talks about what she has been undergoing," Keel wrote.

Faced with Keel's opposition, the public guardian resigned from Inferrera's case in June 2002, replaced by a nonprofit group until her death in April.

Woodburn's eyes still well up when she recalls what her great-aunt went through.

"I wouldn't want to do that to anyone," she said, "and I wouldn't want it done to me."

A More Urgent Mission

Los Angeles County created the Public Guardian's Office in 1945 to step in when adults had no one else to care for them. Its services were to be provided free, courtesy of county taxpayers.

The agency's mission has become more urgent as the county's elderly population has expanded. Yet today, the public guardian has about 500 wards, compared with 1,200 in 1979.

Between 1998 and 2003, the agency sifted through more than 4,000 requests to take over the affairs of physically or mentally disabled adults. It accepted just 16% of them.

The public guardian's inability to meet the demand has helped fuel the rise of for-profit conservators, some of whom got their start at the agency.

Private conservators typically take on wards with sizable estates. The public guardian is often the only source of help for elderly people with little or no money.

The agency's 24-member probate staff occupies threadbare offices in the county Hall of Records, partly in a windowless, bunker-like space called "the stacks."

Until the mid-1980s, the public guardian and public administrator, the agency that manages estates of the dead, received more than \$1 million a year from Los Angeles County.

The county broke them apart in 1987 to save money, folding the public guardian into the Department of Mental Health.

The probate program for the elderly and incapacitated, allocated just \$200,000, dangled by a thread.

A 1988 county audit said the program desperately needed more staff, but the county's chief administrative officer, Richard Dixon, blocked the proposal, citing "severe budgetary constraints." Officials discussed killing it or having it refuse the indigent.

The county eliminated funding for the program in 1990.

Since then, agency officials have kept it alive by squeezing revenue from an array of other sources, public and private.

They also have cut costs, shedding clerical employees as well as a part-time doctor and two nurses who helped assess clients' medical needs.

Fierro, 60, who started at the agency in 1975 as an entry-level caseworker, talked about the erosion with a weary acceptance.

"I've always thought that any service is better than no service," he said.

He paused for a moment, then allowed as how, more recently, "I have questioned that."

Attorney Michael Harrison had much the same thought after a court appointed him to represent 83-year-old Tamara Arutunian.

She had been hospitalized after police found her, confused and disoriented, in a McDonald's restaurant in Santa Monica. After diagnosing her with dementia, hypertension and heart problems, the hospital transferred her to a locked nursing home.

The public guardian became her conservator in September 2003.

Arutunian had lived for decades in a rent-stabilized apartment across the street from St. Monica Church, where she had worked as a cook in the rectory.

Eager to go back home, she instructed Harrison to call her bank and make sure her rent was paid. After several conversations with her, Harrison came to believe she was well enough to live on her own. In mid-October, he asked the court to end the conservatorship.

By that time, however, a deputy public guardian had told Arutunian's apartment manager that she would not be returning.

The deputy abandoned all but a few of her belongings, deciding they were not worth the expense of storing. Her furniture, housewares and religious artwork were set out for other tenants to take, or to be hauled away.

Arutunian was crushed when she found out, said Evelyn Tummolo, who knew the elderly woman for years through the church. Arutunian had attended Mass there daily, always dressed neatly and wearing white gloves.

"When she heard that her apartment was gone, she kind of gave up," Tummolo said.

Harrison tried to get Arutunian out of the public guardian's care. Before a hearing on her case, Arutunian suffered a stroke that left her paralyzed and unable to speak. She died in March 2004.

\$18 for a \$5.79 Bill

The public guardian's thirst for revenue has come to shape every aspect of what it does, from which cases it takes to how it manages clients' care and finances.

The agency collects some income directly from its wards — the comparatively few who have enough assets to pay fees.

The public guardian charges more than \$70 an hour, a rate comparable to those of for-profit private conservators. In one case, the office billed a blind 86-year-old \$18 to write a check for a \$5.79 phone bill.

Wards are charged for the theoretical cost of taking out bonds to insure their assets, even though the agency does not actually buy such bonds — a charge allowed by law.

The public guardian also keeps the difference between the interest rate it receives on clients' cash and the lower rate the law allows it to pass back to them.

Charles Donelon, 91, had an estate of nearly \$300,000 when the public guardian took his case in 2003. In almost two years, Donelon has made less in interest (\$2,309.52) than his expenses eat up in a single month (\$5,708).

Unlike Donelon, most county wards have estates worth less than \$2,000. The agency has had to look elsewhere to subsidize their care.

It draws fees from the state Medi-Cal program for visiting impoverished wards living in board-and-care homes. The payments came to more than \$462,000 last year.

Though less than 20% of the agency's wards live in board-and-cares, they now get more than 40% of the visits.

Fierro said that the agency checks on those clients more frequently in part because their facilities provide less supervision than hospitals or nursing homes.

But he acknowledged that employees have gone out to see the same wards over and over to pack in the maximum number of visits covered by Medi-Cal. Meanwhile, some wards not eligible for the program went six months or more without visits, records show.

In 1993, at the urging of county Supervisor Mike Antonovich, the public guardian struck a deal with a network of about 25 private hospitals. The hospitals needed a way to transfer patients who were ready for discharge but could not manage on their own. The public guardian agreed to give those cases top priority in return for a fee, currently \$977 per case.

Last year, the agency took two of three cases referred by private hospitals that pay fees,

looking into them within a few days.

It rejected nine out of 10 cases from community senior-service groups and nursing homes, sometimes after months of delay.

Living in Squalor

The public guardian does not follow up on the elderly people it turns away. They sometimes end up living in squalid conditions, unable to clean their homes, buy food, go to the doctor or pay their bills, social workers with the county and area senior centers said.

"People say, 'Oh, well, they're old, they're going to die anyway,' " said Oleeta Igar, a former county caseworker who chairs an advisory committee of the Area Agency on Aging. "But the things we're talking about are not just part of the aging process. It's not OK for elderly people to live in filth."

In early 2004, social workers told the public guardian that Mid-City resident Easter Moon needed a conservatorship. They said the 68-year-old was unkempt and emaciated, with almost no food in her refrigerator. Her memory was impaired from alcohol abuse.

As it had twice before, the public guardian declined to take her case, records show. Asked why, Fierro said: "We did not believe the criteria for conservatorship were met." He declined to elaborate, citing privacy restrictions.

Months later, social workers found Moon sleeping on a mattress in the living room of her house, too weak to go upstairs. She had no phone service or power, they said. She was placed in a nursing home, the social workers said, speaking on condition of anonymity. Moon died in January.

A nursing home referred 80-year-old Koichi Tagami to the public guardian in April 2000, saying dementia had left him unable to manage his retirement benefits or make healthcare decisions. Months passed. The public guardian never responded, the nursing home said.

In a statement, agency officials said they did not intervene, because "Mr. Tagami's needs were apparently being met."

Tagami's nursing home later transferred him to another home where staff members could help handle his finances. But state and federal inspectors had repeatedly cited that facility for unclean conditions and substandard care.

Three months later, Tagami died of a massive infection after contracting gangrene that required doctors to amputate his right leg.

He had a circulatory ailment, peripheral arterial disease, which can lead to gangrene. Proper care usually prevents it. Because the public guardian takes so few indigent clients who do not come from fee-paying hospitals, a perception has arisen that an elderly person

must have at least \$100,000 in assets to get in the door.

"Quite frankly, the difference between having money and not having it matters a lot," said Elizabeth Wilson, a longtime geriatric care manager in West Los Angeles. "When there isn't any, those are the people who are really up a creek."

For years, social workers asked the public guardian to assist Betty Lubin.

A secretary at the Department of Veterans Affairs, Lubin worked for years in Washington, D.C., before transferring to the VA's Westwood office in the 1980s to live closer to her brother and his family.

By the time Lubin's health began to falter, however, most of her California relatives had died. So reclusive and tightfisted that she chose not to have a phone, she fell out of touch with the last of them, Renee Morley, a niece.

In 2000, the county's Adult Protective Services program responded to a report that Lubin, then 89, seemed confused and had lost her medical insurance after falling behind on the premiums. The agency referred her case to the public guardian.

An investigator visited Lubin and concluded that she could still feed and groom herself and was up to date on her bills.

Two years later, the public guardian received new reports that Lubin was deteriorating.

When a caseworker from a senior-care group visited her, Lubin greeted her at the door naked from the waist up. Asked to finish dressing, Lubin wandered into her bedroom, then returned in the same state. Her apartment was filthy and her vision was failing, another social worker told the public guardian.

Again, the agency did not act.

In October 2002, Lubin had hip surgery at County-USC Medical Center. The hospital asked the public guardian to assist her, concerned that she could not manage on her own.

The public guardian rarely offers assistance to people referred by county hospitals, which do not pay fees for each referral. It did not in this instance, closing Lubin's case when she agreed to move into a nursing home.

Three months later, Lubin was referred yet again. This time, she had suffered a near-fatal series of seizures. And this time, paramedics rushed her to Northridge Hospital Medical Center — part of the fee-paying network.

The public guardian took the case. "I'm grateful they stepped in," Morley said. "I just wish she'd had someone to care for her sooner."

Visiting the Wards

When Lubin was entrusted to the public guardian, she became part of a "file" — one of up to 90 wards overseen by a single case administrator.

Los Angeles County's administrators have long juggled the heaviest caseloads in the state. There have been persistent complaints that the crush of cases has led to lapses in both day-to-day care and financial management.

The agency has been consistently late in filing court reports showing how it has handled wards' money, often missing deadlines by a year or more. As of August, reports were overdue in 192 cases.

The agency's goal is to see clients roughly every three months, a crucial element in ensuring their well-being. In a recent performance audit, consultants said many wait far longer. At least one had not been visited in a year.

Deputy Public Guardian Anne Bell tries to make visits one day a week, leaving her house at 7:30 a.m. and packing in seven or eight stops in quick succession.

One day in September, Bell visited 83-year-old William Carpenter at a Burbank care home. Observing that his clothes were faded and worn, she helped him order more through a catalog. She checked with the nursing supervisor, who said Carpenter had been given a "lap buddy" to prevent falls from his wheelchair.

"Is there anything you need?" Bell asked Carpenter.

"Not especially," he said.

Next up was Owen Chalmers, 94, who lives at a Santa Monica nursing facility. Bell has arranged for him to have a supply of birdseed so he won't use his food to feed the birds. Sitting in a sun-washed courtyard, Chalmers complained that he can no longer walk and needed an aide to lift him from his bed.

"Do you think you might be slowing down a little bit because of your age?" Bell asked gently. "I know there are things you wish you could do, but I still think you're doing good."

Bell handles the smallest caseload among the L.A. deputies, 75 clients with larger estates. Still, one week out of four, she estimated, she gets stuck in the office and can't make visits at all.

Beyond looking after her file, she rotates regularly onto the duty desk, picking up urgent calls for other deputies who are out.

This fall, the staff struggled to care for about 200 wards left without case managers when

one deputy took time off to recuperate from knee surgery and another retired without giving notice. The workload has eaten away at morale, current and former employees said. One deputy went on vacation and never returned.

Fierro said his staff often goes above and beyond for wards. When one turned 100, Bell brought her an ice cream cake and balloons, at her own expense.

At times, however, simple tasks fall through the cracks.

A B-movie actress and model in the 1940s, Phyllis Planchard always loved to dress in stylish clothes. A poetry lover, she collected the works of Robert Frost and Shelley. She cherished a 1920s maple bedroom set that once belonged to her parents.

Planchard, then 77, was placed in the public guardian's hands in May 2000 after exhibiting signs of confusion and mental decline. She owned a house in North Hollywood, but police found her living in her car. She was taken to a Burbank hospital, then discharged to a nursing home in Glendale.

After becoming her conservator, the public guardian moved her possessions to a county warehouse in Pico Rivera.

Attorney Lisa MacCarley, appointed to represent Planchard, said in court filings that she had asked that at least a few personal items, particularly clothes, be brought to the nursing home.

On photos from her acting days, Planchard wrote across the bottom: "A beautiful Phyllis loves clothes!"

But for seven months, Planchard lived in an almost bare room.

She wore used clothing — even underwear — donated by her care home, mostly from patients who had died.

"It's about human dignity. She was aware she had clothing and it wasn't brought to her," MacCarley said.

Planchard's nursing home complained about her treatment to professional conservator Dan Stubbs, who asked a probate court to remove the public guardian from the case.

Agency officials said an employee eventually brought Planchard some belongings and ordered her new clothes. Nonetheless, in 2001 a judge decided Planchard was better off out of the public guardian's hands. The court named Stubbs as her caretaker.

Making Do With Less

Frustration with the public guardian reached a boil in 2003.

Senior-service agencies that usually routed referrals to the office began sending them to private attorneys and conservators instead.

County officials formed a task force to air out grievances and propose ways that the agency could clarify how it chose cases.

After months of meetings, many of its members came away convinced that the probate program's inadequacies would get even worse as baby boomers moved into old age. The county's population age 60 and older is expected to double between 2000 and 2010, from 800,000 to 1.6 million.

"We have to look at what we have looming," said Yvette Townsend, the task force's co-chairwoman and a former top official at the Department of Mental Health. "If we're having problems now, imagine 10 years from now."

Driven by similar concerns, Antonovich brought a board motion last year to commission a more comprehensive examination of the program.

An audit he requested, issued in April by Blue Consulting, was grim: The public guardian's program for the elderly could not perform its basic function, it said.

Auditors blamed not only scant resources, but a lethargic culture and a top-heavy structure in which each manager supervised an average of just three employees.

Fierro took exception, saying that managers handle a lot of casework because of the thin staffing.

The \$1.1 million approved by county supervisors last month will pay for 16 new employees, including eight deputies.

But county officials have offered no guarantee that the positions will be paid for beyond this fiscal year. If funding is not renewed, the public guardian could have to lay off all of those it hired come July, Fierro said.

Still, the board's action is "an acknowledgment that if we're going to take care of what is a growing part of the population, more resources will be necessary," said Marvin Southard, head of the Department of Mental Health, the public guardian's parent agency.

It came too late for Leslie Joseph Smith.

Smith, 61, was referred to the Public Guardian's Office in March 1999. A drug user who was often homeless, he had inherited his aunt's house in Watts and, with it, the prospect of a better life.

Attorney Juanita Miller, who represented Smith's cousins in the probate of his aunt's

estate, said she called the guardian's office hoping it could find Smith and take care of the home.

Over the next six months, the agency tried just twice to contact Smith after finding his last known address through the Social Security Administration.

In April 1999, an investigator went to see him at the Wilshire Vista Board and Care, but left after 15 minutes when told that Smith had gone for a walk, records show. Three months later, a staff member checked back by phone, but was told Smith had moved out.

Still, that September, the agency decided to extend Smith the services it denies so many others: It went to court and asked to become his conservator, saying he was a missing person with an estate that needed protecting.

In fact, Smith was dead. He had been found face-down in an alley near skid row two weeks earlier. His body lay in the county morgue, waiting to be claimed.

Two years passed before the public guardian, making a routine inquiry at the behest of its lawyer, the county counsel, discovered that Smith had died.

"That's a little tough to swallow," Miller said. "Two Christmases had gone by. Two Easters."

In the meantime, the agency had sold the house Smith inherited and paid itself and its lawyer almost \$11,000 for work done on his behalf.

Even after discovering Smith had died, the agency did not notify his relatives, Miller said.

His unclaimed remains had been burned at the county crematory, which waited for someone to collect his ashes.

No one did.

After four years, the crematory placed them in a common grave for indigents.

The gravestone is marked "2000," the year of his cremation.

*

Researcher Maloy Moore contributed to this report.

*

(BEGIN TEXT OF INFOBOX)

Little room for the needy

The Los Angeles Public Guardian's Office is the county's conservator of last resort. Once a national model, it is now the only such agency in Southern California that has received no support from county taxpayers.

--

Caseloads

Deputy public guardians in Los Angeles juggle the heaviest caseloads in the state.

Open cases: 502

Average caseload per deputy: 84

--

Dispositions

The agency rejects more than four of five aged citizens referred for help.

Cases rejected: 675

Of the cases rejected, 110 died while waiting

Cases accepted: 103

(2003 data)

--

Referrals

The office takes the highest percentage of its cases from an "access network" of hospitals that pay a fee for each referral.

Access network: 69% appointed

Adult Protective Services: 35%

Nursing homes/community: 10%

L.A. County-USC Hospital: 7%

(2003-2004 data)

*

Sources: Times reporting, Los Angeles County Public Guardian, Blue Consulting Report