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Attorney Brett Alan Alcalá, University of San Francisco School of Law professor Robert Talbot and Elizabeth Falk of Finance Outsource (left to right) answer questions after giving a presentation to senior citizens on avoiding investment fraud at the Osher Lifelong Learning Center in San Francisco.

Reducing the Risk for Elder Abuse in Finance

By REBECCA BEYER

FROM THE DAILY JOURNAL

SAN FRANCISCO — Some of them have walkers or wheelchairs. Even with hearing aids and glasses, they can't hear or see very well. They are grandparents and great-grandparents, widows and widowers.

And, as senior citizens, they are particularly vulnerable to financial scams and unsuitable investments.

In response, a clinic at the University of San Francisco School of Law that helps people who have disputes with their securities brokers is reaching out to seniors with seminars across San Francisco.

People older than 65 belong to a powerful demographic force. They are expected to double their numbers in California to 6.4 million by 2020.

Attorneys who represent them are part of a growing practice area. Elder

financial abuse cases — which can range from a family member or neighbor swindling a senior out of his or her life savings to the sale of unsuitable financial products — are also on the rise, and for good reason: Seniors hold more than two-thirds of the nation's wealth, according to statistics.

Professor Robert E. Talbot started the Investor Justice Clinic at the University of San Francisco School of Law in 2002. Most investors sign arbitration agreements with brokers when they become clients, so Talbot and his students handle arbitrations for clients who cannot afford a private attorney. The clinic does not charge for its services.

Talbot said the effort to reach out to seniors is in response to a growing concern about financial products that

See FINANCE, Page 3

Finance

Continued from Page 1

are pushed upon seniors even when they don't make sense for their needs.

"Everybody sees seniors as a vulnerable population," Talbot said. "A lot of [securities sales] are done by cold-calling. Most telemarketers get hung up on, but very often seniors who want somebody to talk to will talk to them."

Talbot's clinic, the only one recognized on the West Coast by the Financial Industry Regulation Authority, helps people who have lost less than \$25,000 and whose income does not exceed \$50,000.

Tim Ulen, a second-year law student at the University of San Francisco, worked in the financial industry for four years and acquired a few securities licenses before deciding to go to law school.

"My firm was very conservative," he

said. "But I was always on the lookout for making sure representatives were placing clients in the best investments."

Certain investments, Ulen said, are just "red flags for older people."

Ulen said he joined the clinic because it seemed like a good way to get "hands-on experience" in a field with which he was familiar.

Brett A. Alcalá, a San Mateo attorney who handles securities cases, refers people to the clinic when he can't take them as clients.

"I've talked to hundreds of people over the years who have very sad, compelling stories," he said. "As a practicing attorney, it's difficult to help them if their claim is so small it doesn't make economic sense. It's nice to have a resource like the clinic to refer clients to."

Talbot said most of the clinic's cases come from situations where a senior whose investments should be tailored for wealth preservation are instead geared for growth and placed in funds with high com-

missions or fees.

Kathryn A. Stebner, of San Francisco's Stebner & Associates, focuses on physical and financial elder-abuse cases. She does not take securities cases because of the arbitration requirement. But she said securities are one area, like many other areas, where seniors are targeted for high-commission sales and therefore need representation.

She said seniors who may have a great deal of money tied up in their home or investments often try to free up cash for living expenses.

"They're afraid of not having money and of having to depend on someone else," she said. "So they buy these products. Then, they're too embarrassed to tell their family."

Stebner said the clinic provides a great service.

"A lot of seniors don't know who to reach out to," she said.

Having an attorney and law students say "you didn't do anything wrong; I'm here

to help," is important, she said.

Talbot said the clinic doesn't add an elder-abuse claim in an arbitration unless someone has lost his or her entire life savings or the breach of duty to the investor was "extreme."

He remembers one elder-abuse case the clinic settled in which he applied to have the arbitration fees waived because the woman had only \$17 to her name. She had lost more than \$40,000 in an unsuitable investment.

At one recent seminar at an assisted-living facility in San Francisco, Ulen and another student addressed about two dozen seniors under Talbot's supervision.

At the end of their hour-long presentation about what to look for, including excessive trading or unnecessarily high fees, they gave each senior a large-print copy of their notes and told them to call with any questions.

One woman didn't wait that long. She approached Ulen right away to make an appointment for the following week.