
NDBA Live

October 10, 2025

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Member Questions

Question 1: I’m reaching out with a question regarding North Dakota UTMA accounts. When a minor reaches the age of majority, are we permitted to release the funds directly to the beneficiary? Or does the custodian still need to initiate the release of funds?

Response: North Dakota’s UTMA law can be found in Chapter 47-24.1 of the North Dakota Century Code, and it states that it is up to the custodian to deliver the funds to the beneficiary. See the applicable North Dakota Statute below:

47-24.1-20. Termination of custodianship.

The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of:

1. The minor's attainment of twenty-one years of age with respect to custodial property transferred under section 47-24.1-04 or 47-24.1-05;
2. The minor's attainment of age eighteen with respect to custodial property transferred under section 47-24.1-06 or 47-24.1-07; or
3. The minor's death.

Question 2: In the case that the account owner and beneficiary pass away at the same time and we do not have contingent beneficiaries on the account, does their will then take over and designate those funds to the contingent beneficiaries if listed in the will? If it does not right away, do we as the bank then send those funds to the state if not claimed and they go into probate?

As a bank, are we held liable if we have existing accounts that have beneficiaries as well as contingent beneficiaries listed.

If we are, is it accepted in the state of North Dakota to have the customer provide us with a written and signed letter stating the beneficiaries and contingent beneficiaries they would like on a specific account to match with our signature card to save us from being liable for any unforeseen circumstances.

Response: For an individual to have an interest in an account they must be an account holder or a P.O.D. designated beneficiary stated on the account.

The terms and conditions of your account as far as rights of survivorship will be stated in your deposit account agreement and the beneficiaries will be identified as P.O.D. designations in the agreement as well.

Chapter 30.1-31 of the North Dakota Century Code addresses Nonprobate Transfers on Death. [North Dakota Century Code t30.1c31](#)

The bank should not try to interpret a will and must rely on a Court Order establishing a Personal Representative when an account holder is deceased and there is no surviving account holder and no P.O.D. designations. That is unless a person presents the bank with an Affidavit of Small Estate. [North Dakota Century Code t30.1c23](#)

If no one comes forward I believe Chapter 47-30.2 the Revised Uniform Unclaimed Property Act will apply. [North Dakota Century Code t47c30.2](#)

It seems to me that you are also asking if a Will changes the P.O.D. designation on an account. I don't believe it does because the Will is a tool of probate that the P.O.D. is a designation outside of probate.

As always be sure to run specific legal questions by your counsel as NDDBA cannot give legal advice.

Question 3: If a successor trustee is named in the trust, does the successor trustee need to sign the trust document?

Response: The definition of a “trust instrument” requires only that the settlor sign the trust instrument. *See* N.D.C.C. § 59-09-03(25) (“‘Trust instrument’ means a record signed by the settlor that contains terms of the trust, including any amendments to the record and any modifications permitted by court order or by binding nonjudicial settlement agreement.”).

Generally, “[a] person designated as trustee accepts the trusteeship by substantially complying with a method of acceptance provided in the terms of the trust or, if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.” N.D.C.C. § 59-15-01(1).

Appointment of a successor is governed by N.D.C.C. § 59-15-04:

1. A vacancy in a trusteeship occurs if a person designated as trustee declines the trusteeship, a person designated as trustee cannot be identified, cannot be located, or does not exist, a trustee resigns, a trustee is disqualified or removed, a trustee dies, or a guardian or conservator is appointed for an individual serving as trustee.
 2. If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled. A vacancy in a trusteeship must be filled if the trust has no remaining trustee.
 3. A vacancy in a trusteeship of a noncharitable trust which is required to be filled must be filled in the following order of priority. First, the vacancy must be filled by a person designated in the terms of the trust or appointed under the terms of the trust to act as successor trustee. Second, the vacancy must be filled by a person appointed by unanimous agreement of the qualified beneficiaries. Finally, the vacancy must be filled by a person appointed by the court.
 4. A vacancy in a trusteeship of a charitable trust which is required to be filled must be filled in the following order of priority. First, the vacancy must be filled by a person designated in the terms of the trust or appointed under the terms of the trust to act as successor trustee. Second, the vacancy must be filled by a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust if the attorney general concurs in the selection. Finally, the vacancy must be filled by a person appointed by the court.
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5. Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.

Furthermore, N.D.C.C. § 59-15-07 provides that “[t]itle to all trust property must be owned by and vested in any successor trustee without any conveyance, transfer, or assignment by the prior trustee.”

Question 4: The trust document used includes a ‘self-proving affidavit’ for the grantor, trustee(s) and the witnesses and/or notary public. So there are signature lines for 2 witnesses, but no witnesses were present when signing.

Response: North Dakota law does not provide for self-proving affidavits for trusts, but it does provide for self-proved wills as follows:

1. A will that is executed with attesting witnesses may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state in which execution occurs and evidenced by the officer's certificate, under official seal, attached or annexed to the will in substantially the following form:

STATE OF _____

COUNTY OF _____

I, _____, the testator, sign my name to this instrument this _____ day of _____, _____, and being first sworn, declare to the undersigned authority that I sign and execute this instrument as my will and that I sign it willingly or willingly direct another to sign for me, that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

Testator

We, _____, _____, the witnesses, sign our names to this instrument, and being first sworn, declare to the undersigned authority that the testator signs and executes this instrument as the testator's will and that the testator signs it willingly or willingly directs another to sign for the testator, and that each of us, in the presence and hearing of the testator, signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

Witness

Witness

Subscribed, sworn to, and acknowledged before me by _____, the
testator, and subscribed and sworn to before me by _____ and
_____, witnesses, this _____ day of _____.
(SEAL) (Signed) _____

(Official capacity of officer)

2. A will that is executed with attesting witnesses may at any time after its execution be made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state in which the acknowledgment occurs and evidenced by the officer's certificate, under the official seal, attached or annexed to the will in substantially the following form:

STATE OF _____

COUNTY OF _____

We, _____, _____, and _____, the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as the testator's will and that the testator had signed willingly or willingly directed another to sign for the testator, and that the testator executed it as the testator's free and voluntary act for the purposes therein expressed; and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of our knowledge the testator was at that time 18 years of age or older, of sound mind, and under no constraint or undue influence.

Testator

Witness

Witness

Subscribed, sworn to, and acknowledged before me by _____, the testator, and subscribed and sworn to before me
by _____ and _____, witnesses, this _____ day of
_____, _____.

(SEAL)

(Signed) _____

(Official capacity of officer)

3. A signature affixed to a self-proving affidavit attached to a will is considered a signature affixed to the will, if necessary to prove the will's due execution.

N.D.C.C. § 30.1-08-04.

Question 5: Who can open the account for a revocable trust?

Response: The trust instrument should provide the powers of the trustee. You can also rely on a certification of trust:

59-18-13. (1013) Certification of trust.

- 1. Unless otherwise required by chapter 59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, or 59-19, the trustee may furnish to the person a certification of trust containing information that includes that the trust exists and the effective date of the trust instrument, the name of the trust, if a name is given, the identity of each settlor, the identity and address of the currently acting trustee, the applicable powers of the trustee, which may make reference to the powers set forth in chapters 59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, and 59-19, the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust, and the authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee.**
 - 2. A certification of trust may be signed or otherwise authenticated by any trustee.**
 - 3. A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.**
 - 4. A certification of trust need not contain the dispositive terms of a trust.**
 - 5. A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.**
 - 6. A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.**
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7. A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.
 8. A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for damages if the court determines that the person did not act in good faith in demanding the trust instrument.
 9. This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.
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Agencies Issue [Joint Release](#) Announcing Third Public Outreach Meeting As Part of Their Review of Regulations

On October 30, 2025, federal bank regulatory agencies will host a hybrid public outreach meeting as part of the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) review, which requires agencies to evaluate their regulations every 10 years to identify outdated or unnecessary requirements. The meeting will allow stakeholders to share views on regulatory areas such as Applications and Reporting, Consumer Protection, Safety and Soundness, Capital, and the Community Reinvestment Act, among others. Individuals wishing to provide oral comments—virtually or in person—must register by October 22, 2025, and specify the regulatory categories they wish to address. Advance registration is also required for in-person attendance, with additional information and a virtual attendance link available on the EGRPRA website. Further public meetings will be announced in the coming months.

Four Charged in Scheme to Launder Millions from “Pig Butchering” Crypto Scams

Four individuals have been named in a seven-count indictment charging them with laundering the proceeds of fraudulent cryptocurrency investment schemes known as “pig butchering.” Pig butchering is a term derived from a foreign-language phrase used to describe these crimes and consists of scammers approaching victims through dating apps, social media, or unsolicited messages that often appear to be from a wrong number. The scammers establish a relationship with the victim and gradually gain their trust before suggesting a business or investment opportunity involving cryptocurrency. Victims are then directed to fraudulent investment websites or applications operated by other members of the scheme and are persuaded to make financial investments. These platforms typically display fake profits to encourage further deposits, but once the money is transferred into scammer-controlled accounts, victims are unable to withdraw or recover their funds, often suffering substantial losses.

The defendants in this case allegedly set up shell companies and bank accounts to move funds from victims across domestic and international financial institutions. The underlying fraud involved at least 284 transactions and more than \$80 million in losses, with over \$20 million directly deposited into accounts tied to the defendants. [[Link](#)]

CFPB Issues Revised Open Banking Rule ANPR

On August 21, 2025, the Consumer Financial Protection Bureau (CFPB) published an [Advance Notice of Proposed Rulemaking \(ANPR\)](#) that seeks to revise the “open banking” rule under Section 1033 of the Dodd-Frank Act. Under the proposed changes, financial institutions would be required to provide consumers with standardized access to their own financial data—allowing consumers to download and transfer that data to other financial institutions or service providers at no cost. The ANPR seeks public input on a variety of issues including whether institutions should be allowed to charge fees to third parties, what data security and privacy safeguards should apply, and how data sharing should be regulated. Comments on the proposal are due October 21, 2025, and the CFPB aims to issue a final rule by the end of 2026.

Teen Named TIME’s 2025 Kid of the Year for Battling Senior Cyber Scams

TIME named 16-year-old Tejasvi Manoj its 2025 Kid of the Year for her efforts to shield older adults from cyber scams. Her mission began after her 85-year-old grandfather nearly fell victim to a phishing attack, in which fraudsters, posing as a relative, emailed him an urgent request for \$2,000 to settle an unexpected debt. The grandfather reached out to relatives for advice before ultimately calling the uncle to see if the request was legitimate, which it was not. Realizing how vulnerable older adults are, Tejasvi created Shield Seniors, a website that educates seniors about online scams, analyzes suspicious emails and messages uploaded, and provides links for reporting fraudulent communications. The site is currently available in private preview mode only.

Debate Grows Over Definition of “State Chartered Depository Institution” in GENIUS Act

Controversy has emerged around a provision of the GENIUS Act that grants state-chartered depository institutions national money transmission and custody powers when operating through a stablecoin issuer subsidiary. Bank traders and state regulators are pushing to repeal the provision, arguing it gives preemption authority to uninsured banks. The confusion stems from the complex way the Act defines “state chartered depository institution,” which cross-references multiple Federal Deposit Insurance Act definitions and makes it applicable to any institution “eligible to apply to become an insured depository institution.”

FDIC Issues AML Consent Order Against Unity Bank of Mississippi

Unity Bank of Mississippi, a \$280MM asset bank, is now under a comprehensive anti-money laundering (AML) [consent order](#) issued by the Federal Deposit Insurance Corporation (FDIC) and the Mississippi Department of Banking and Consumer Finance. The order highlights deficiencies across key areas including executive authority, staffing, independent testing, training, customer due diligence (CDD), suspicious activity reporting, accurate and timely CTR filings, risk assessments, and board oversight. The bank’s reliance on a “clean audit” without a qualified auditor is also noted as problematic. The order emphasizes documenting decisions not to file suspicious activity reports, tailoring automated monitoring systems to the bank’s specific threats, and aligning CTR and cash aggregation programs with the institution’s ML/TF risk profile. It further mandates that the CDD program operate in coordination with customer identification and

suspicious activity monitoring to develop accurate customer risk profiles. The case serves as a cautionary example that even smaller banks must maintain robust AML controls and oversight.

Sen. Tim Scott Requests Additional Information from FDIC on Deposit Insurance Reform

Senator Tim Scott (R-S.C.), Chairman of the Senate Banking Committee, has requested further information from the FDIC regarding the current state of uninsured deposits in the U.S. banking system and the potential impacts of increasing the deposit insurance limit. In a letter to FDIC Acting Chairman Travis Hill, Scott posed several questions aimed at assessing the costs to banks and the behavioral changes that might result from such reforms. This inquiry follows a recent Senate hearing where the American Bankers Association (ABA) presented policy recommendations for deposit insurance reform, including the consideration of indexing insurance limits to inflation. Senator Scott emphasized the need for a thorough evaluation of these proposals, acknowledging the complexities and trade-offs involved in reforming the deposit insurance system. He has requested a response from the FDIC by October 20, 2025.

OCC Announces Actions to Reduce Regulatory Burden for Community Banks

The Office of the Comptroller of the Currency (OCC) has unveiled several initiatives aimed at reducing regulatory burdens for community banks. These measures include clarifying examination procedures to tailor the scope and frequency based on risk, eliminating fixed examination requirements, and focusing on core assessment standards for retail nondeposit investment products. Additionally, the OCC has issued guidance emphasizing that model risk management practices should be proportionate to a bank's risk exposures and complexity, and it has proposed rescinding the Fair Housing Home Loan Data System regulation to remove duplicative data collection requirements. The OCC is also considering broadening eligibility for expedited or reduced licensing procedures to community banks to facilitate corporate activities and transactions. These actions are part of the OCC's ongoing efforts to tailor its regulatory and supervisory frameworks to minimize burdens and promote economic growth. [[Link](#)]

Federal Reserve Appeals Court Ruling on Regulation II Interchange Fee Standard

The Federal Reserve has appealed a federal court decision that invalidated Regulation II's standard for setting debit interchange fees. A group of North Dakota retailer trade associations and the truck stop Corner Post sued the Fed in 2021, arguing that Regulation II exceeded its statutory authority by considering costs beyond incremental authorization, clearance, or settlement costs. In August, U.S. District Court Judge Daniel Traynor sided with the plaintiffs, finding that the Dodd-Frank Act's Durbin Amendment "clearly prohibits" the inclusion of such additional costs. In contrast, a federal judge in Kentucky upheld Regulation II in a similar case. The Federal Reserve has now asked the U.S. Court of Appeals for the Eighth Circuit to review the North Dakota ruling. The American Bankers Association filed an amicus brief in support of the Fed's position in the Corner Post case.

FDIC Proposes Defining “Unsafe and Unsound Practices” and Removing Reputational Risk from Bank Supervision

The FDIC has proposed two regulatory changes aimed at refining bank supervision. First, the FDIC seeks to establish a formal definition of "unsafe and unsound practices," describing them as actions contrary to generally accepted standards of prudent operation that could materially harm a bank or pose a risk to the Deposit Insurance Fund. This move addresses the current lack of a clear definition, which has led to inconsistent interpretations by courts and administrative bodies. Second, the FDIC, in collaboration with the OCC, proposes eliminating "reputational risk" from supervisory considerations. The agencies argue that without clear standards, reputational risk assessments have been inconsistent and subjective. These proposals aim to focus regulatory oversight on factors directly impacting a bank's financial health and stability. The American Bankers Association has expressed support for these initiatives, highlighting the need for more targeted and effective supervision.

Executive Order Guaranteeing Fair Banking vs. BSA

On August 7, 2025, President Trump issued an executive order titled "Guaranteeing Fair Banking For All Americans," aimed at preventing financial institutions from denying services based on political or religious beliefs or lawful business activities. The order highlights concerns that some financial institutions participated in government-directed surveillance programs targeting individuals involved in conservative activities following the events at the U.S. Capitol on January 6, 2021, flagging individuals who made transactions related to companies like “Cabela’s” and “Bass Pro Shop” or peer-to-peer payments involving terms like “Trump” or “MAGA” without specific evidence tying those individuals to criminal conduct.

While the intent of the order is to protect consumers from ideological discrimination, concerns have been raised about its impact on Bank Secrecy Act (BSA) compliance. Financial institutions are responsible for filing Suspicious Activity Reports (SARs) based on often subjective criteria. Some BSA officers and industry experts have expressed fear that potential political pressure could lead financial institutions to retain members or customers they might otherwise consider high-risk. They worry that BSA officers might be hesitant to file SARs or close accounts due to the conflicting mandates of the executive order and BSA regulations.

FinCEN Analysis of Check Fraud Related to Mail Theft

FinCEN’s analysis of mail-theft-related check fraud found that, over a six-month period, more than 15,000 suspicious activity reports totaling \$688 million were filed, affecting personal, business, and retirement accounts nationwide. The most common fraud methods included altering stolen checks (44%), creating counterfeit checks from stolen originals (26%), and fraudulently signing and depositing checks without major alteration (20%). The report emphasizes that banks should remain vigilant across all account types and regions, promptly file suspicious activity reports, and refer affected customers to the U.S. Postal Inspection Service. It also highlights the importance of collaboration between financial institutions, law enforcement, and FinCEN to detect, report, and prevent such fraud. [[Link](#)]

BND to Launch Stablecoin

The Bank of North Dakota (BND) has partnered with Fiserv to introduce the Roughrider Coin, the state's first stablecoin, set to launch in 2026. Initially, Roughrider Coin will be available exclusively to North Dakota banks and credit unions, facilitating secure and efficient digital payments within the state's financial ecosystem. The initiative aligns with the federal GENIUS Act, which provides a regulatory framework for stablecoins, ensuring consumer protection and financial stability. As the first state-backed stablecoin to be launched on Fiserv's digital asset platform, Roughrider Coin positions North Dakota at the forefront of digital finance innovation.

Upcoming Events

NDBA has many exciting and informational events planned for 2025. Below are some special dates to mark on your calendars!

- **NDBA Bank Compliance School** | October 20-23, 2025 | Bismarck and Virtual
 - **NDBA Fraud Forum** | October 20, 2025 | Bismarck
 - **NDBA Peer Group Consortium** | October 21, 2025 | Bismarck
 - **NDBA IRA Fundamentals** | October 27, 2025 | Fargo – Delta Hotel by Marriott | [Online Registration](#) | [PDF Registration Form](#)
 - **NDBA Advanced IRAs** | October 28, 2025 | Fargo – Delta Hotel by Marriott | [Online Registration](#) | [PDF Registration Form](#)
 - **NDBA IRA Fundamentals** | October 29, 2025 | Bismarck – Courtyard by Marriott | [Online Registration](#) | [PDF Registration Form](#)
 - **NDBA Advanced IRAs** | October 30, 2025 | Bismarck – Courtyard by Marriott | [Online Registration](#) | [PDF Registration Form](#)
 - **NDBA HSA Half-Day Workshop** | October 31, 2025 | Bismarck – Courtyard by Marriott | [Online Registration](#) | [PDF Registration Form](#)
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Financial Abuse & Bankruptcy

Tracy Kennedy recently presented on the topic of financial abuse and bankruptcy and wanted to share the materials with NDBA members. Materials start on the next page.

Financial Abuse & Bankruptcy

Tracy Kennedy – Dakota Law Group (formerly Zimney Foster P.C.)

October 9, 2025

Disclaimer: These materials provide general information and are intended for educational purposes only. Nothing in this program, the program materials, or communications stemming from the program (including questions and answers) should be considered as the rendering of legal advice or as creating an attorney-client relationship between any program attendees/readers and the presenters/authors. Persons having a need for legal advice should engage the services of a licensed attorney in all legal matters. Presentation attendees/readers should assure themselves that these materials are current and applicable at the time they are reviewed or considered. The presenters/authors do not warrant that these materials will continue to be accurate because laws and interpretation of laws evolve and change over time, nor do they warrant them to be completely free of errors when delivered/published. Presentation participants/readers should verify statements before relying on them.

INTRODUCTION

Financial exploitation frequently precipitates consumer and small-business bankruptcies. Victims often arrive in bankruptcy court with depleted cash, disputed debts, frozen accounts, or coerced transfers to scammers. On the other side, some debtors face allegations of facilitating or receiving fraudulent transfers, triggering avoidance, discharge, and fraud concerns.

The problem is growing rapidly. In 2024, the Federal Trade Commission reported \$12.5 billion in consumer losses to online scams—a 25% jump from 2023. The FBI placed the 2024 loss figure even higher at \$16.6 billion, a 33% increase.

This paper highlights common scam patterns, bankruptcy tools available under §§ 362, 542, 544–550, 727, and 523, and state elder-financial-exploitation frameworks in Minnesota and North Dakota that can be leveraged to protect clients and recover assets.

COMMON FRAUD SCENARIOS

- Debtor-victim scams: drained by romance, tech-support, or investment schemes; last transfers often through crypto kiosks.
- Prepetition withdrawals: debtor pulled cash at a scammer’s direction; funds then repaid to family or shifted to others.
- Money mule suspicions: debtor acted as conduit, laundered proceeds, or concealed crypto.
- Elder abuse: disputed POA/conservator; control of accounts contested on petition date.

Social-Media & Facebook Scams

Scammers exploit Facebook Marketplace and Messenger to push victims into irreversible payment channels: crypto kiosks (BTMs), gift cards, P2P apps, or large cash withdrawals.

- **Buyer fraud:** fake payment screenshots; “overpayment then refund”; fraudulent shipping labels.
- **Seller fraud:** counterfeit goods, no-delivery schemes, or chargebacks.

- **Account takeovers:** phishing (“Facebook Protect”), SIM-swaps, malware; 2FA disabled; ads purchased.
- **Cloned profiles:** imposters send “urgent” pleas for money.
- **Romance/investment grooming:** “pig-butcher” scams migrating from Facebook/Instagram to WhatsApp with fake dashboards.
- **Job/task scams:** bogus online gigs requiring upfront fees, escalating into crypto payments.

BANKRUPTCY TOOLS AND HOW TO USE THEM

- **Automatic Stay (§362):** halt ongoing transfers, freeze scam outflows, stabilize accounts.
- **Turnover (§542):** compel return of estate property from third parties; combine with Rule 2004 to track crypto/exchange holdings.
- **Avoidance & Recovery (§§544, 548, 550, 549):**
 - §548: avoid fraudulent transfers within two years.
 - §544(b): borrow state fraudulent transfer statutes.
 - §550: recover from initial and subsequent transferees.
 - §549: avoid postpetition scam transfers.
- **Dischargeability (§§523 & 727):**
 - §523(a)(2)(A): actual fraud.
 - §523(a)(4): fiduciary fraud/embezzlement.
 - §523(a)(6): willful/malicious injury.
 - §523(a)(19): securities violations.
 - §727: denial of discharge for concealment, false oaths, or hidden wallets.
- **Discovery (Rule 2004):** broad examinations to trace funds—banks, money transmitters, exchanges, kiosk operators. Seek kiosk receipts with transaction hashes (ND law now requires them), KYC/AML records, and Meta logs.
- **Preservation Letters:** send promptly to banks, exchanges, kiosk operators, and Meta; coordinate with the U.S. Trustee in complex cases.

USING STATE ELDER-EXPLOITATION LAWS IN BANKRUPTCY

State Elder Financial Exploitation laws can help you justify pauses, contact trusted persons, and obtain records while you and the trustee stabilize the case.

Minnesota:

- *Safe Seniors Act* (ch. 45A): allows disbursement delays/holds.
- *Vulnerable Adult Act* (§626.557): mandatory reporting.
- MAARC: 24/7 centralized reporting line.

North Dakota:

- NDCC ch. 6-08.5: banks may delay/refuse suspected exploitation transactions.
- ND HHS reporting duties.
- New 2025 law (NDCC 13.09.1-50): regulates crypto kiosks—mandates warnings, receipts with transaction hashes, and caps transactions at \$2,000/day.

RECENT FEDERAL GUIDANCE ON CRYPTO KIOSKS (BITCOIN ATMS)

FinCEN's Aug. 4, 2025 notice addresses scam payments involving crypto kiosks, reiterates that kiosk operators are Money Service Businesses with full Bank Secrecy Act duties, and provides red flags. For debtor-victims, you'll need kiosk receipts and exchange records to trace assets. For alleged perpetrators, expect Anti Money Laundering and Know Your Customer files to be probative.

[FinCEN Notice \(press page\)](#) | [FinCEN Notice \(PDF\)](#) | [FTC Data Spotlight on BTMs](#)

DIRECTION FOR DEBTOR COUNSEL, CREDITOR'S COUNSEL AND TRUSTEES

Debtor's Counsel

- Stabilize: use §362 to halt transfers; notify bank and cite state Elder Financial Exploitation law if needed to pause outgoing disbursements.
- Inventory & trace: collect kiosk receipts, wallet addresses, QR codes, and exchange account identifiers; run Rule 2004 on banks/exchanges/operators.
- Clawback: screen for §548 and §544(b) actions; coordinate with trustee on §550 recovery from initial/subsequent transferees.
- Identity theft: dispute fraudulent accounts; preserve credit reports; consider adversaries to determine dischargeability of scam-related debts.
- Protection: if caregiver misused POA, consider state court relief or referral to Adult Protective Services and Police, Sheriff, Federal Agents while you litigate control over accounts.

Creditor's Counsel

- Investigate: seek Rule 2004 discovery of debtor's devices, wallets, exchanges, kiosks used; request Know Your Customers from Money Service Businesses.
- Stay relief/adequate protection: if funds are frozen or setoff implicated, move promptly and address your ability to place administrative freeze boundaries.
- Nondischargeability: evaluate §523(a)(2),(4),(6),(19) theories for debtor-perpetrators; consider §727 if concealment/false oaths.
- Tracing & recovery: if your client is a defrauded transferor, coordinate with trustee on aligned avoidance; if a transferee, assert §550(b) good-faith defenses.

Trustees

- Early case conference: confirm whether Financial Exploitation is suspected; secure accounts and devices; prevent further losses.
- Rule 2004 roadmap: banks, Money Service Businesses, kiosk operators, telecom (phone numbers used), email providers, social platforms; preserve authorization logs, sometimes called 2FA logs.

- Vendors: consider blockchain analytics to trace on-chain assets; tailor subpoenas to exchange-specific data fields.
- Adversary posture: plead actual fraud where facts support; anticipate foreign recipients and consider domestic intermediaries for recovery.

DISCOVERY – WHAT TO ASK FOR

- Banks & credit unions: account statements; wires; cash withdrawal logs; call center notes; fraud department notes; hold notices.
- Crypto exchanges (e.g., Coinbase, Kraken, Binance.US): Know Your Customer; login/IP/device history; wallet addresses; TXIDs a/k/a transaction hash; internal risk flags; support tickets.
- Kiosk operators: location & device ID; surveillance time windows; receipt data (TXID, addresses); compliance reviews.
- Telecom/email/social: subscriber info; login metadata; message logs/content with proper process.
- Postal Inspection (mail-based schemes): shipping labels; tracking; seized package reports (coordinate with Law enforcement).
- Messenger threads, listing URLs/IDs, screenshots, QR codes, phone numbers/handles, profile URLs. Also get when meeting with your client.
- Crypto kiosk receipts (TXIDs), exchange account identifiers, wallet addresses; bank/P2P records (Zelle/Venmo/Cash App). Also get when meeting with your client.
- Device/login history from Facebook; confirmations of email/2FA changes; any ad-account charges after ATO. Also get when meeting with your client.

PRIVACY AND SENSITIVE INFORMATION

- Banks cannot disclose the existence of SARs in discovery or to clients/adversaries.
- Protect victim privacy; limit sensitive details in public filings; consider sealing exhibits with account/wallet numbers.
- When relying on state Elder Financial Exploitation exceptions to share information, document good-faith basis and scope limits.

CLOSING THOUGHTS

Elder financial exploitation and digital fraud increasingly drive bankruptcy filings and contested adversaries. Bankruptcy practitioners—whether debtor’s counsel, creditor’s counsel, or trustee—must be ready to stabilize cases, trace digital assets, leverage state elder-protection laws, and use the Bankruptcy Code’s avoidance and discharge provisions to protect victims and preserve estate value.

USEFUL LINKS TO STATE AND FEDERAL PRESS RELEASES DEALING WITH ONLINE SCAMS AND CRYPTO FRAUD

- EDNY (Brooklyn): 11 defendants; investment-fraud, laundering, unlicensed MSB. [Press release \(Oct. 13, 2022\)](#) — Bankruptcy: Rule 2004 on shell MSBs; cashier's-check tracing; §523(a)(2), §727.
- CDCA (Los Angeles): Two foreign nationals; ≥\$73M; USDT via offshore bank. [Press release \(May 16, 2024\)](#) — Bankruptcy: demand TXIDs/KYC; §548/§544(b); §550.
- CDCA (Santa Ana): Three arrests; shell MSBs took \$13M+; elder MN victim. [Press release \(Feb. 25, 2025\)](#) — Bankruptcy: coordinate with trustee; §523(a)(2),(4),(6); §727 if concealment.
- EDTX (Tyler): Charge re pig-butcherer laundering conspiracy. [Press release \(May 21, 2024\)](#) — Bankruptcy: subpoena bank KYC & device/IP logs; nondischargeability if facilitator.
- D.D.C.: Record \$225.3M civil forfeiture for crypto-confidence scams. [USAO-DC release \(June 18, 2025\)](#) — Bankruptcy: use forfeiture posture for restoration; mine complaint for tracing.
- D. Mass.: Forfeiture to recover crypto at Binance; 30+ linked victims. [Press release \(Mar. 13, 2024\)](#) — Bankruptcy: coordinate with USAO; align avoidance with protective orders.
- NDNY: USSS/USAO domain seizures (OKEX-NFT.net; NFT-UNI.com). [Press releases \(2024 & 2025\)](#) — Bankruptcy: use takedown affidavits to ID fake-site infrastructure.
- NDCA/OPA: ~\$9M Tether seized; 70+ victims. [Press release \(Nov. 21, 2023\)](#) — Bankruptcy: attach warrants/affidavits to support §548 actual-fraud pattern.
- CDCA: \$112M seized tied to investment schemes (many pig-butcherer). [Press release \(Apr. 3, 2023\)](#) — Bankruptcy: turnover/remission prospects; cross-reference victim lists.
- N.D. Ohio: USDT forfeitures; elderly Ohioan + siblings >\$1M; Tether freezes. [Press release \(June 3, 2025\)](#) — Bankruptcy: coordinate with exchange/USAO; tie forfeiture records to §550.