

## **Lessons Learned from Experience**

This is an excerpt from *INHERITANCE HIJACKERS: Who Wants to Steal Your Inheritance and How to Protect It* authored by Attorney Robert C. Adamski.

Inheritance hijacking comes in many forms. The case studies in *INHERITANCE HIJACKERS: Who Wants to Steal Your Inheritance and How to Protect It* illustrate how the legal theories explained in earlier chapters come to life in actual hijacking cases. The cases warrant close examination to illustrate, not only the crime, but more importantly the characteristics of the victims and the hijackers. A hijacking cannot occur without an opportune meeting of circumstances, victim, and hijacker.

The places and names have been changed to protect everyone involved and to avoid breaching the attorney-client privilege of confidentiality. Any reference or resemblance to any person, living or dead, is pure coincidence and unintentional. Some case studies are drawn from two or more actual cases to illustrate multiple points. Each hijacking and how it was accomplished or thwarted presents a real situation.

While the case studies are entertaining, they are designed to help the reader develop a sense of how, why, and when a hijacking opportunity can appear in their own family situation. Armed with that knowledge and sensitivity, the reader can better guard against a hijacking. If they do become the victim, they can better identify the problem and quickly seek to right the wrong.

I wish you good reading.

## **Case Study One**

## **Hijacking by the Trusted but Cunning Child**

The simplest hijacking is outright theft by a hijacker who has been given the power to steal by the victim. These cases warrant close examination, not only because of the crime, but because of the human relationships between the parties. Notice as you read the victim's naïveté to the risk of trusting a particular person. The victim has nothing to be sorry for except the trust the victim had in the hijacker. Once the hijacker is empowered to steal, the only obstacle to the hijacker's success is the hijacker's own conscience. While the trusting victim gave the hijacker the opportunity to strike, the hijacker would not have acted without the internal motivation provided by her relationship with her sister. When the hijacker rationalizes the theft to quiet her nagging conscience, there is no stopping her.

Private trusts are the most popular estate-planning tool. Thousands of private trusts are created every day to avoid the probate system and reduce estate taxes. Creating a trust is the beginning of a long and complex financial relationship among the participants, who are already family members with their own personal histories and relationships. Those relationships often change when the trust assets are thrown into the mix. This case study illustrates the dangers inherent in all private trusts.

### **Olivia and Brenda. Two sisters, two annuities and one trust, one hijacking.**

This is the story of two sisters, Olivia and Brenda, who were born in San Pablo, California. Their father, a newly discharged World War II Navy veteran with a genius for engineering, was attending the University of California at Berkeley on the GI Bill when they were born. Their mother, a tall, stunning blonde, worked as a bookkeeper at a local lumberyard to help support her husband and two girls.

The girls were born just thirteen months apart and were some of the first baby boomers. They had long blond hair like their mother, which was never fully under control. Their mother would have cut the often-tangled locks if she did not adore them so.

Their father, Brad Simmons, earned a bachelor of science degree in just three years. He then earned his master's degree in aeronautical electrical engineering in a mere fifteen months. Brad was driven to succeed in school in order to get on with living his life.

During Brad's last semester in school, the large corporations came calling on the best and the brightest at Berkeley, as they did every year. Brad was seduced by a large salary and a chance to work in Houston, Texas, on what was known as the Jet Propulsion Project, later known as the Rocket Project, and finally known as the Space Project. At the time, no one imagined that the Russians would launch Sputnik into orbit and send the United States into a full-bore race to the moon. Brad was unknowingly inducted into the group destined to put the first man on the moon.

One evening, Brad came home earlier than his usual eight or nine o'clock arrival time. After kissing his two girls and his wife, he casually asked, "How would you like to move to a tropical paradise?"

"What do you mean?" his wife, Sandra, asked.

"We have a chance to move to Cape Canaveral."

Sandra became excited. "Florida?" She had not been able to acclimate to Texas and was growing increasingly weary of Houston.

"That's the place."

"What is Florida?" Olivia asked.

“A place called the Sunshine State,” her mother answered. “With beautiful water and everything else.”

“I take it you’re willing to discuss the matter?” Brad said.

“There is no discussion,” Sandra answered. “If you want to go, we’ll move tomorrow.”

Brad laughed. “They offered me a project manager’s slot. I don’t know about tomorrow, but we’d probably be able to leave in about four weeks. I tell them we accept.”

Sandra threw her arms around Brad’s neck and kissed him. “Come here, girls,” she said to Olivia and Brenda, hugging them. “You are going to be eating oranges before you know it.”

Brenda said, “But we had orange juice today.”

Brenda’s answer struck Sandra in her funny bone. She burst out laughing and, in a rush of excitement, hugged both the girls and Brad until they insisted she stop.

The Sunshine State was good to Brad, Sandra, and the two girls. Sandra found a nice home a few blocks from the beach to raise her girls. The family settled in easily to the slow pace of Cocoa Beach. Life revolved around the space center, the largest employer on the east coast of Florida between Jacksonville and Miami. All of their friends and neighbors either worked at the space center or earned their livelihood from the people who worked there. When *I dream of Jeanie* aired, the family identified with the characters as though they were neighbors down the block.

Seasons quickly slipped away almost unnoticed and folded into years. It didn’t seem long before the family was attending Brenda’s high school graduation at Cocoa Beach High School in 1961. Olivia had graduated a year earlier and had finished her freshman year at the University of Florida in Gainesville. Brenda would start Florida State University in Tallahassee, the arch rival

to the University of Florida, in the fall. The two universities competed for superiority in Florida in every arena from sports to academics.

Brad and Sandra knew the advantages a good education can afford people who do not have family wealth or social connections. They insisted the girls apply themselves in school to ensure a bright future. The girls, wishing to please their parents, willingly complied. They graduated near but not at the top of their high school class. Brenda edged out Olivia for the best GPA between the sisters, but only by a tenth of a point.

The choice to attend rival universities underscored a lifelong rivalry that existed between Olivia and Brenda. The girls had unconsciously competed with each other for their parents' affection from the time they could crawl onto their parents' laps. The competition for their father's affection and attention was especially keen. Brad loved working long hours at the space center and often missed their bedtime when they were young girls. He was sometimes away for days to work on launches or special problems. When Brad was accessible, the girls did all they could to please him. The competition guided the girls throughout their lives and forged their relationship.

Olivia became an accountant and later a CPA. Brenda became a high school English teacher. In the career competition, Olivia felt she had won because she earned more money than her sister. Brenda, on the other hand, felt she had won because she felt she was much happier with her career choice than her sister, who griped about tax season and working long hours.

Both of the girls met young men while in college and later married those young men. The spouse competition was something of a draw. Each married an engineer who took job at the space center.

Each girl had three children. Two girls and a boy for Olivia. Two boys and a girl for Brenda. Again, a draw for anyone counting.

Brad's career grew with the space program. He was recognized by his peers as an outstanding engineer. When Neil Armstrong stepped out of the space craft on to the Moon on July 21, 1969, Brad was justifiably proud of his own large contribution to the success of the project.

Brad retired in 1985 at the age of sixty-five. He hated to leave his work but was pushed out to make way for younger engineers with recent educations in the modern theories. Brad learned to enjoy his retirement and lived to enjoy the millennium. Even as he approached eighty years of age, his mind was sharp and his memory clear. He died peacefully in his sleep from heart failure in late 2000.

Sandra was confused by Brad's death. Unlike Brad, Sandra's memory had begun slipping in early 1997. She masked her memory loss for a time, but by the time of Brad's death her disability was well established.

Olivia and Brenda and their spouses met at Brenda's home after Brad's funeral to discuss Sandra's situation. They all recognized Sandra's disability and her inability to manage her monetary affairs.

Years before, Brad and Sandra had taken the good advice of their estate-planning attorney. They had created a revocable trust to manage their assets during their lifetimes and pass the assets to their daughters at their deaths. The lawyer was experienced and sensitive to the needs of his aging clientele. He knew that two of the worst fears people have as they age are losing control of their lives and outliving their savings. The lawyer told Brad and Sandra that if they became incompetent, their daughters had the ability to assume management of the trust.

However, if their daughters assumed control, they could manage the trust only, the lawyer stressed, for the benefit of Brad and Sandra. Anyone who managed the trust while Brad and Sandra were alive had a fiduciary duty to Brad and Sandra, as well as to the beneficiaries of their trust estate at their deaths. The manager could not use the money for the benefit of anyone except Brad and Sandra. The lawyer made his point by saying that if anyone breached that fiduciary duty, they were committing theft and could be prosecuted as a common criminal, as well as sued by the victims.

The lawyer did a fine job with one exception. He failed to explore the relationship between Olivia and Brenda. Had he pressed his clients on this issue, he might have learned that the two girls were very competitive in almost every way throughout their lives. This should have alerted the lawyer to the possibility of competition between the daughters for their parents' inheritance. Brad and Sandra believed the competitive spirit between their daughters made them both better persons because they pushed each other to higher levels. They failed to recognize the darker side of the competitive spirit between the girls.

They chose Olivia to be the manager of their estate when they were no longer able to because of her career experience, with Brenda as an alternate.

Brad and Sandra felt very comfortable with their lawyer and followed his advice to the letter. The lawyer advised Brad and Sandra to give copies of the trust to Olivia and Brenda and talk about their desires with their daughters. Brad and Sandra did give copies to their daughters and explained that they intended to be fair with them and treat them equally. Olivia and Brenda knew that their parents' assets were to be divided equally between them at their parents' death. Until then the assets were to be used only to benefit Brad and Sandra. Brad made a point of telling his daughters that there might be nothing left for them. When the girls learned of the

extent of their parent's estate, they were sure there would be something left unless catastrophe struck.

After Brad's funeral, the two sisters and their spouses met to map Sandra's future.

"I think we should let Mom stay here, in her own home, for now," Olivia told the others.

"She can manage very well on her own."

Brenda agreed, "She'll need a cleaning lady once a week or so. Just about everything else she can do herself."

Liking the direction of the conversation, the husbands agreed without comment. Their fear was that Sandra would be taken into one of their homes by Olivia or Brenda. Although they professed to love their mother-in-law, they were not willing to disrupt their lives and become caregivers to her. They each harbored these concerns in silence and alone, afraid to voice them lest they be thought of as heartless and unloving.

"I think Mom can handle living by herself for now, but I think we should consider taking over her finances," Brenda said.

"I agree," answered Olivia.

"What do we need to do to accomplish that?" Brenda asked.

Olivia explained, "According to the trust, we can have Mom examined by her physician. If he agrees she is not capable, the trust names me as the first successor trustee, and you are second successor trustee, an alternate, if I cannot handle the job. I guess they did it that way because I'm a CPA."

The sisters and their spouses agreed the plan created by Brad and Sandra made life easier for all of them. They agreed to follow their plan until it required revision.



Olivia viewed her appointment as first successor trustee as a signal from her parents that she was the favored child. The truth was that the lawyer who drew the trust made the decision. He asked Brad and Sandra what their children did for a living. When they responded that Olivia was a CPA, he suggested she be the first successor trustee, with Sandra as the alternate. Brad and Sandra simply agreed with the lawyer's recommendation without thinking much about it. Favoring one daughter over the other never crossed their minds.

Olivia and Brenda visited Sandra to discuss change in control of the trust. To their surprise, Sandra willingly agreed to relinquish control. She was happy to be relieved of the burden and bother of worrying about money, which she had little need for at her age.

Olivia insisted the accounts held in the trust be transferred to her bank for her convenience and to consolidate the accounts. Seeing the advantages, Brenda agreed.

Brenda's husband, Charlie, a loan officer at the bank where Sandra and Brad banked, questioned moving the accounts. "You had better keep an eye on your sister," Charlie cautioned Brenda. "She needs watching."

Brenda said, "I'm not worried. She would never do anything to hurt Mom."

"It's not your mother I'm concerned about," Charlie told Brenda. "You are the one at risk."

Wishing to avoid the subject, Brenda did not reply to Charlie. She felt comfortable with the situation, at least for the time being. At that particular moment Brenda was preoccupied with much more serious concerns. Earlier that week Brenda performed a self-examination and discovered what she thought might be a lump in her breast. She did some research on the Internet and was deeply troubled by what she learned. She called her doctor to schedule an exam. Not

wishing to cause concern where it may not be warranted, Brenda did not mention her discovery to Charlie. She chose to shoulder the burden alone for the time being.

The doctor confirmed Brenda's worst fears. Her breasts were riddled with cancer, and it had metastasized. She needed radical breast surgery and chemotherapy to slow the deadly growth.

Charlie and her children rallied around Brenda, as did Olivia and her family. Sandra was not told of her daughter's cancer. Brenda and Olivia decided Sandra did not need to worry about her children at her age.

Brenda harbored a concern she was embarrassed to share with anyone, but as the surgery drew closer, the need to share her concern with her husband overcame her embarrassment. Brenda decided there was no tactful way to approach the subject, so she decided to just blurt it out.

"I need to ask you something," she said to Charlie. "This may sound foolish, but will you still love me without my breasts?"

Charlie thought Brenda was joking. "Why do you ask that? Your breasts are not all that important."

Brenda started to weep. "You love them so much," she whimpered. "I thought you loved me because of them."

Charlie laughed to brighten the mood. "Of course, I love your breasts," he said. "They are magnificent. I thank your mother's genes for them. But if they are gone, it is not a big deal. We'll still have the memories of them." Charlie took Brenda in his arms and held her. They were silent for a long moment.

Brenda began to weep uncontrollably. She managed to say between her sobs, “I am not crying about my breasts. I am crying about the cancer. I don’t want to die.”

“You are not going to die,” Charlie whispered to his wife, who was now almost limp in his arms. “You are not going to die.” Charlie began to weep, careful not to allow Brenda to see his tears. Brenda pressed against Charlie, wanting to crawl inside her strong husband for safety. Brenda felt Charlie’s weeping from the sudden swell of his chest and his uneven breathing. She felt his heartbreak and wept for him as well.

Brenda’s illness became the focus of the family. Charlie and Brenda’s lives were centered on doctor’s visits, lab tests, reactions to drugs, and worry. Her cancer had advanced beyond her breasts to her organs and bone marrow. The chemotherapy slowed the cancer’s progress and had an unusual and dangerous side effect. The drug used to attack the cancer in the bone marrow also caused the bone marrow to shut down the manufacture of red blood cells. If Brenda continued to use the drug, she would die for lack of red blood cells. The doctors decided to attack the cancer in the bone marrow by other means. Unfortunately, the replacement drugs did little to slow the cancer’s destructive progress.

During Brenda’s ordeal, Olivia succeeded in taking total control of her mother’s assets. The accounts were moved to Olivia’s bank, where she had dealt with the bank personnel for years. The bankers trusted Olivia and cut corners when they could to please their longtime customer.

When Olivia opened the new checking accounts, she asked for an ATM and debit card. This allowed her to avoid writing checks when making purchases. Incidentally, it also left less of a paper trail and evidence of the purchases.

When Olivia opened the new accounts and ordered the ATM and debit card, she did not intend to use her mother's accounts for her own use. But as chance would have it, she was short of cash on one occasion and used her mother's debit card to pay for her personal purchases. After that first purchase, Olivia found it very convenient to pull out her mother's debit card when shopping. She knew her mother could not possibly use all her savings in her lifetime. Olivia considered use of her mother's money to be an advance on her inheritance. And, she reasoned, she was handling the trust and should be paid for her work, even if it was for her mother. Soon Olivia was using the card on a daily basis to finance her personal life.

Olivia and her husband, Harry, decided to take a cruise to the Western Caribbean from Miami. Olivia thought about the consequences of charging the expense to her mother's account. Eventually, she decided in favor of charging the cruise to the account. Olivia was on the edge of a slippery slope and sliding quickly to self-destruction.

Brad and Susan were conservative savers during their earning years. They put their money in safe investments. Years before their death, they were sold annuities by a smooth annuity salesman. They were confident in their financial futures. The annuities allowed Brad and Susan to name beneficiaries in the event of their deaths. They divided their annuity investment into two equal shares for their two daughters and named the daughters as beneficiaries of one-half each. Brad mentioned this to Olivia and Brenda years before his death.

"Your mother and I have money put aside for each of you," he told the two sisters. "Equal amounts. You will inherit it when we are both gone. You will not need to work again, I can tell you that," he said. The plan to treat the daughters equally was the heart of the plan. Olivia searched her parents' paperwork until she found the annuity policies. Her parents had purchased annuities to support themselves during their lives and named Brenda and her as the

beneficiaries at death. The amount, hundreds of thousands of dollars for each sister, astounded Olivia. She was giddy about it for a few days. Becoming rich at her mother's death excited her. She decided to keep the discovery to herself for the time being to allow time to assess the situation.

Brenda's condition worsened by the month, then by the week. She was fighting a valiant battle, but she was losing. It was clear she would neither be cured nor go into a long remission. Neither Brenda nor Charlie gave any thought to Susan's finances. They knew Susan was receiving good care. Immersed in their own problems, they ignored the details.

During this time the financial industry was in an uproar about the annuities it had sold years earlier to people like Brad and Susan. The same companies that had sold the annuities were now claiming they were bad investments in the present financial environment. They had created a market where none existed to churn the assets of their clients. They created products to replace the older annuities. Their salesmen, deceptively titled Financial Advisors, seized the opportunity to sell their clients new financial products and combed the countryside for prospects. Brad and Susan were two very attractive prospects. The hundreds of thousands of dollars in their annuities could be converted to a different investment while throwing off large fees to the lucky salesman who convinced them to switch.

The salesman who targeted Brad and Susan found Olivia in charge of the annuities. After learning that Olivia was a CPA, he expected resistance to any change. He anticipated Olivia to work the numbers and find that a change would benefit the salesman but not the client. He was surprised when Olivia accepted his advice to cash in the older annuities in exchange for new and improved annuities. Olivia used the power of attorney her mother gave her to complete the transaction. While working the transaction, the salesman smelled a rat when Olivia changed the

owner of the annuity from Sandra to herself. He studied the paperwork and discovered Brenda was being deprived of her share of the inheritance. Olivia explained the change was for estate tax planning. The salesman wondered if he was doing the right thing for Sandra and Brenda in allowing the change without their approval. It was plain that Olivia might be hijacking her sister's inheritance. He weighed the harm done to the family against the possible loss of a large commission. He decided the family situation was none of his business and collected his money.

Olivia did not hijack her sister's inheritance in cold blood. She thought about what she was doing and wondered if her conscience would let her live with herself. She reasoned that Brenda's illness changed the entire family dynamic. It was clear to Olivia that Brenda would not outlive Sandra. Olivia told herself that if her parents had known one of the daughters would not survive them both, they would have given that daughter's share to the surviving daughter. Never mind, she told herself, that her parents specifically provided that a deceased daughter's share would go to the daughter's children. Olivia told herself that language was just lawyer talk and not what her parents would have wanted for their daughters. Olivia's self-inflicted delusion eased her conscience and allowed her to live with the theft of her sister's inheritance.

When the papers were signed and the hijacking complete, Olivia was relieved. "It is done," she told herself. "This is what Dad and Mom would have wanted. Once Brenda dies, Charlie and his brood will drift away from the rest of us. They will not bother Mom or me for the money."

Olivia continued to use the ATM and debit card. She became infatuated with spending money on her family and arrogant about the spending, going so far as to buy her husband tickets to the Jacksonville 500 for his birthday.

Florida winter weather is balmy and clear when compared to weather anywhere else in the United States. The Sunshine State lives up to its name almost every day of the year. As pleasant as Florida is, there are times when a winter cold front passes through Florida on its way to the Bahamas. When a cold front presses down in February or March, it brings high winds and surf along with falling temperatures. The worst of the fronts endanger the winter orange crop, sometimes causing millions of dollars in damage. Rarely do the cold fronts linger. They race thorough to the Bahamas. Just such a cold front came through Cocoa Beach as February turned to March, bringing more changes than just the weather.

Olivia has vivid memories of that morning when the cold front killed the winter tomato plants Harry forgot to cover with a sheet the night before. She looked out at her backyard to see the succulent plants in the cold and knew they would turn yellow by the next day and then collapse where they once stood strong. She remembered the day not because of the tomato plants but because she received a call from the Cocoa Beach Police. Her mother had an emergency at home and managed to call 911. When the police arrived they found her unconscious on the floor. She had died before the paramedics arrived. With that call, Olivia's world collapsed like her tomato plants caught in the freeze.

Brenda struggled through her mother's funeral, not thinking much about money or an inheritance. She assumed everything would work out for the best.

Brenda remembered what her father had told her about her inheritance. She talked with her husband, Charlie, about the conversation. Brenda told Charlie, "If there is an inheritance, I want you to have it when I am gone. Spend it on education if you can, for the children and grandchildren. Don't let the children spend it foolishly."

“You’re not going anywhere. You can spend it yourself,” Charlie told Brenda in a reassuring tone as he could muster, knowing he was trying to lie to both his wife and himself.

Three weeks after Susan’s funeral, Olivia visited Brenda. They exchanged pleasantries and sat down to a cup of tea. Brenda brought Olivia up-to-date on her treatment. Olivia tried to be as optimistic as possible, telling Brenda she looked as if she was getting stronger. When the conversation lagged, Olivia pulled an envelope from her purse and handed it to Brenda.

“This is half of what was left when Mon died. I paid all of the funeral expenses. There were no medical bills since she died so suddenly.”

“I did not expect this so soon,” Brenda said. “I expected a complicated mess, to tell you the truth.”

“There wasn’t much left,” Olivia said as Brenda opened the envelope to find a check for forty-two thousand dollars made payable to her.

“This is all that was left?” Brenda asked. “What about the money Dad talked about?”

“I’ll be damned if I can find any of that money,” Olivia answered. “I don’t know where it went, if it ever existed. Dad may have been telling us a story. I don’t know.”

“Dad was not like that,” Brenda said. “Maybe it will turn up. Do you think so?”

“Believe me, I have looked everywhere for more money,” Olivia answered. “I was afraid Mom would run out of money and we would have to support her.”

Brenda returned the check to the envelope and pushed it aside. “If you don’t mind, I am very tired,” she said to Olivia. “I need to take a nap.”

“Of course,” Olivia answered, happy to be able to end the questions about the inheritance. “I’ll visit again soon.”



Olivia sighed in relief as she drove from Brenda's home to her own. Before visiting Brenda to hand her the check and lie to her about her inheritance, she imagined all sorts of bad scenes. She timed the visit to avoid Charlie and his questions. Olivia felt comfortable with the way she left it with Brenda. Olivia guessed that the forty-two thousand dollars would satisfy her sister. Olivia wondered what would happen if Brenda figured out the check should have been for the true amount of Brenda's inheritance, fifteen times that amount.

Later that day, Brenda gave the check to Charlie and asked him what he thought. Charlie studied the check, noticing something odd. "This check is from Olivia's personal account. Why is that? It should be from your mother's trust."

"Olivia says there is no more money. She can't find any more."

"I knew it," Charlie said. "I just knew it. I never trusted her. I tell you, she stole the money just as sure as I am sitting here."

Brenda looked at Charlie and looked at the check. She decided she was just too tired to deal with the matter on that day. "I need to take a nap."

"Let me help you," Charlie answered, rising to help Brenda to her bed.

Brenda was right not to concern herself about money and material things. Her condition had taken a turn for the worse. Charlie backed off the subject of her inheritance, but he did not forget. Charlie had observed the competition between his wife and her sister since he married Brenda. Each tried to outdo the other in subtle ways. Charlie believed the two sisters genuinely loved each other, but the lack of an accounting of funds from Olivia deeply bothered him. He did not like the smell of the entire situation. He knew that if something smells, it is probably rotten. He wondered if, in spite of their love for each other, Olivia would try to cheat Brenda out of her rightful inheritance. Would Olivia see this as the last arena in which the two sisters would have

an opportunity to compete? Would Olivia cheat her sister and her sister's family out of an inheritance for the sake of winning this last competition? He did not know then that he would soon answer some of these questions.

The next seven weeks were not easy. Brenda quickly declined. The doctors offered little hope. Hospice served Brenda in her home until the end. Brenda died peacefully at home with her family and her sister's family at her bedside. All questions of money and inheritance were put aside during this period.

When the ordeal of the funeral was over, Charlie rented a small house in the Florida Keys and took his adult sons deep-sea fishing. The dolphinfish, known as mahi-mahi in Hawaii, were in season running up past the Keys to the Carolinas to spend the summer. Charlie chartered a big fishing boat to troll the Gulf Stream with his sons to clear his mind and refresh his body. They pulled in their fair share of the beautiful iridescent blue-green-yellow fish and renewed their spirits.

At dinner their last night in the Keys, Charlie brought up the possibility of Olivia hijacking Brenda's inheritance. The possibility gnawed at him. He could not bear the thought that his wife and children might have been cheated.

"If we go after this, it is not for me," he told them. "It is for your mother and you, her children. I am not entitled to any of it. And I do not want it. But I will pay a lawyer to make it right. I owe that to your mother."

Charlie's sons saw that he was angry and revenge was the only remedy. "Dad, if you need to do it, we're behind you," his sons said.

The next week Charlie sat with a lawyer recommended by one of his banking colleagues. During the interview the lawyer asked Charlie, "How old was your wife when she died?"

“Sixty-one years,” Charlie answered.

“We may be able to charge her with a criminal act,” the lawyer told Charlie.

“Embezzlement?” Charlie asked.

“No,” the lawyer answered. “The state’s attorney does not have the gumption to go after these cases to charge embezzlement. I mean abuse of the elderly. This Olivia person abused her mother by defrauding her, and she also abused your wife by stealing from her.”

Charlie’s ears perked up.

“This is something new. The laws in Florida have not been tested in this way, but they should be,” the lawyer continued. “If you are willing to throw everything we can at her, I will see if the judges will support us.”

“Let me tell you something,” Charlie told the lawyer. “I loved my wife more than anything. And I love my children. They are all wronged by this. I want it made right. I don’t care what we need to do. I want it done!”

The lawyer opened a probate estate with Charlie as the personal representative. This gave Charlie the right to act as Brenda’s representative and sue Olivia. Charlie sued for breach of fiduciary duty on Brenda’s part, civil theft, and elderly abuse. Following the paper trail took months. Olivia hired lawyers who obstructed Charlie’s lawyer at every opportunity.

As the saying goes, you can run but not hide. Eventually, Charlie’s lawyer followed the paper trail and found the money. He made veiled threats about insisting on criminal prosecution. With the trial date fast approaching, Olivia’s lawyers began sending settlement proposals. At first they claimed Olivia had spent the money and was judgment proof. They said that Charlie might get a judgment, but he would never collect. When Charlie insisted on a trial to get his judgment, they changed their tactics and began offering money to settle the case. Charlie rejected

every offer and would not compromise one inch. He insisted on recovering every penny due his wife and children. His motivation was to right the wrong that had been done. The money was a tool with which to punish Olivia.

Although Charlie had insisted on collecting every penny due his wife, he knew that trials can lead to unexpected and bad results. With the trial scheduled to begin the next morning, Charlie accepted a settlement he could live with. Even though he accepted a settlement for less than he wanted, Charlie knew it was killing Olivia to pay the money, and he luxuriated in her pain.

#### **Comments on Olivia and Brenda.**

The lessons to be learned from this case study are straightforward. Had Olivia not been offered the opportunity to hijack her sister's inheritance, she would be an honest woman to this day. However, the temptation overcame her honesty and loyalty to her parents and her sister. The lifelong competition between the two sisters and Brenda's illness gave Olivia the excuse she needed to rationalize the hijacking.

Olivia became a hijacker when she detected the weakness in her first victim and Target A, her parents. As the parents aged, the hijacker slowly gathered her courage. She struck when the Target A victims were too weak to defend themselves. Brenda, the hijacker's second victim and Target B, was a weak adversary from the start. Brenda's preliminary weakness was the trust she had in her sister and later her illness, which distracted her from overseeing her parents' wellbeing. At the critical time, Brenda was not available to help her parents or herself.

An important lesson to take away from this case study is that it is impossible to determine who may succumb to temptation. Brad and Susan had good reason to trust their daughters to do the right thing under any conditions. Unfortunately, trust in another is not a guarantee of loyalty

or defense against a hijacking. Trust affords a hijacker the opportunity to be tempted to commit the crime.

It is true that it is better to be safe than sorry. Had Olivia and Brenda both been nominated to serve as administrators with equal powers, the girls would have kept an eye on each other. Olivia would never have been tempted to hijack her sister's share of the estate.

As well as illustrating how much power a person possesses when they are sole trustee of a trust, we see that power corrupted Olivia. Olivia substituted her judgment for her mother's judgment when she decided Brenda's children should not inherit Brenda's share of the estate because Brenda was dying of cancer. This change was clearly not her parents' wish, yet Olivia was allowed to make the change because she had the power to do so. Fortunately, it was reversed by Charlie, but only after a long legal battle.

The annuity salesman should also carry some of the blame. His only interest was his own selfish well-being. He could have alerted Brenda to the hijacking of her annuity, but he chose not to do so. The lesson here is that we should not rely on strangers to do the right thing and protect us from harm, even if they know we are in danger.