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As you may have seen in an earlier “Learn Law” column, a Continuing Power of Attorney for Property (“CPAP”) can be a very important and useful document if you become incapable of making financial decisions for yourself. It allows the person you name as your attorney for property (“attorney”) to do anything with your money and other property that you could yourself, except make a will.

Sounds like a pretty powerful document, doesn't it?

Well, it is. In the wrong hands – or even in well-meaning but misinformed hands – it can be misused. Sometimes an attorney may simply not know that they have to keep your money separate, can only spend it for your benefit, and must keep records of every transaction. Sometimes a person may push you into naming him or her as your attorney when that is not what you want, and then do things with your property that are not in your best interest. Some people have even had their bank accounts drained and their houses sold by their attorney for property, all without their knowledge. And, sadly, the culprit is often a friend, caregiver or family member who we love.

You may be thinking that having a CPAP isn't worth the risk. Only you can decide – but there are ways to reduce the chances of someone taking advantage of you. First and foremost, you need to choose your attorney carefully. Ask yourself questions like: who do I know who is good with money and record-keeping? Who lives nearby, or at least in the same province? Who is already familiar with my financial affairs? Who understands and respects my financial priorities? Who do I trust to look after my best interests when I cannot? Those are the some of the qualities of an ideal attorney for property. On the other hand, there are certain characteristics and circumstances that are best avoided. Someone who is careless or irresponsible with money, or who already has a lot of other responsibilities, may not be well suited for such an important job. You might want to choose a trust company or other professional – with their agreement – especially if your financial affairs are complicated or if you're not sure someone from your family would be up to the task. You can also name more than one person, and require them to make decisions together. Although this makes the attorneys' work harder, it is far more difficult for someone to get away with mismanaging your property if someone else has to agree with his or her decisions.

If you think that you, or someone you know, is being abused by an attorney for property, you should call the police – power of attorney fraud is a crime under section 331 of the *Criminal Code*. You can find more information about power of attorney abuse at:

Office of the Public Guardian and Trustee – <http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/>  
Ontario Network for Prevention of Elder Abuse – <http://www.elderabuseontario.com/>  
Advocacy Centre for the Elderly – [http://www.acelaw.ca/elder\\_abuse\\_-\\_introduction.php](http://www.acelaw.ca/elder_abuse_-_introduction.php)  
Your Legal Rights – <http://yourlegalrights.on.ca/>  
Ontario Seniors Secretariat – [www.seniors.gov.on.ca/en/safety/whatisea.php](http://www.seniors.gov.on.ca/en/safety/whatisea.php)

This column is not intended to provide legal advice. It provides general legal information and is written by the staff of community legal clinics, student legal aid societies, volunteer local lawyers and Legal Aid Ontario. The law can change. You should contact a lawyer to determine your legal rights and obligations. If you are living on a low income, you may be eligible for free legal help from Legal Aid Ontario (criminal, family or immigration) or your local community legal clinic (income security programs, employment law, tenants' rights, consumer law, or human rights). You can reach Legal Aid Ontario at 1-800-668-8258 or visit them online at [www.legalaid.on.ca](http://www.legalaid.on.ca). Contact the Community Advocacy & Legal Centre at 1-877-966-8686 for more information or visit [www.communitylegalcentre.ca](http://www.communitylegalcentre.ca).

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