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**BUSINESS DAY**

# Rescuing A Relative Who Won't Accept Help

By ROY FURCHGOTT AUG. 10, 1997

## Correction Appended

I TRIED not to let my shock show. I had been told that Uncle Joe needed help, but I didn't expect this. I drew my face into a tight smile, gave him a hug and walked into the house in Thomasville, Ga., where he had spent most of his 94 years.

The living room was jammed with stacks of papers, furniture from Joe's office-supply store and tattered mementos. Around Joe's brown vinyl recliner were a half-dozen dishes with unfinished meals. Cockroaches teemed over the carpet of overdue bills, torn catalogues and ancient correspondence.

Joe didn't look much better than the room. He was painfully thin, crooked with age. His hair was unkempt and he was unshaved, dressed only in worn blue boxer shorts and a ribbed tank undershirt. He moved back to his chair with an unsteady shuffle.

This was not the Joseph Nathan Rosolio I knew. The Joe who was my great-uncle but in many ways was the only grandfather I had known. The fiercely independent and social Joe. The meticulous dresser. A fixture in Thomasville, a sleepy town of 17,800 some 35 miles northeast of Tallahassee, Fla., where he was known as much for his acts of charity as for his mercurial temperament and propensity for petty grudges.

Joe, a descendant of Austro-Hungarian merchants, helped to raise my mother, Marilyn, starting in 1936 when she was 8. Her mother had just died, and she moved with her father, LeRoy, into the family homestead to live with his two unmarried siblings, Joe and Selma. Joe outlived them all, including my mother, leaving me, an only child, as his sole remaining

blood relative.

Last August, when I walked into the chaos of the Thomasville house with my father, Maurice, it was time to help Joe. As I saw it, it was my responsibility, as the only family he had left, to see that he was cared for.

I expected it to be work -- Joe's business and personal affairs were in heaps around the living room, after all -- but not difficult work. For one thing, Joe had invested well and had ample savings -- although I didn't know how ample. For another, he was in relatively good physical shape, despite his appearance and his years.

I thought that I could afford a week away from Baltimore -- where I work as a freelance writer -- to put things in order in Thomasville. The goal was to find a housekeeper to cook and keep the place tidy. After a bit of organizing, hiring and delegating chores and care, Joe would be happier and better off.

As I saw it, I would be doing a good deed. I expected that Joe's many acquaintances in and around Thomasville and the members of my own family would rally in support.

I should have remembered a familiar adage: No good deed goes unpunished.

It is a lesson a lot of people will have to consider in the near future. Not only are baby boomers like me -- I'm 39 -- at a point where we may have to take care of a parent or other elderly relative, but many of us are also reaching an age at which we have to plan for our own care.

In 1990, there were 3 million people age 85 or older in the United States. By 2010, there will be 6 million. By 2050, 19 million. Half of those who make it to that age eventually need some help with the activities of daily living, said Thomas E. Finucane, an associate professor of medicine and geriatrics at the Johns Hopkins University School of Medicine. That means they have lost the ability to feed, dress or bathe themselves or to get from a bed to a chair unaided. In other words, Dr. Finucane said, they can no longer do all the things that a 5- or 6-year-old can do.

My experience began almost exactly a year ago. I eventually started to keep a diary when I decided to turn the saga into a newspaper article, a plan I disclosed to all the main players in Uncle Joe's story.

I became involved because of a call from a family friend, Helen Craigmiles, who told my father that Joe needed help but wouldn't let anyone do anything.

Uncle Joe had rebuffed our attempts to visit for years. LeRoy died in 1972, and my mother and Selma followed in 1985 and 1986, respectively. Joe wasn't much for our company after that. "The house isn't ready," he would say. "I'll call you in a month, then you can come down." But months slipped by, then years.

He was pleasant enough on the phone -- rehashing the same old stories about the Shriners, a branch of the Masons to which he belonged, and about his store -- but over time he became more and more adamant that we not visit.

When I finally walked into the living room last year, I thought I could see why. I assumed that he was embarrassed by the state of the house and by the fact that his bills were so overdue. I would later learn that it was really a matter of keeping control. And that what I had seen so far was just an inkling of what was to come.

Joe still owned the office supply store he opened in the 1930's. Although he claimed to work daily, he only opened the store for a few minutes every couple of weeks, we discovered, and was doing almost no business. He owed rent and was behind on the phone and utilities. And the store was a worse mess than the house. Trash cans were placed strategically on desks, cabinets and counters to catch the rain that poured through the ceiling. When the cans overflowed, the water ran through the rotted floors. Mildew was growing on piles of papers atop and under desks.

The house was run down because Joe had dismissed his housekeeper of six years, contending that she had stolen from him. And the store was a mess partly because he had also dismissed a longtime employee, Boyd Hollis, also for supposedly stealing. In fact, Joe told us, even though he had changed the locks Boyd was still sneaking into the house at night and taking Joe's pants and hiding his eyeglasses.

Dad and I exchanged dubious glances. We knew the housekeeper and Boyd and believed both to be loyal and trustworthy -- we concluded that Joe was delusional.

Dad argued that Joe needed a housekeeper, illustrating his point by dramatically swatting at cockroaches. Joe ignored Dad except to criticize his marksmanship. "When I go

after bugs, I use a rolled-up newspaper," Joe said. "And I never miss."

We were perplexed. We went around town, meeting people who were looking after Joe to one degree or another. Marshall Berman, president of the tiny synagogue that served Joe and the small number of other Jews in Thomasville, had been very attentive. He was happy to see us, glad to have someone else help do the dozen little chores -- change a light bulb, pick up soda -- that Joe would call in with every day. Marshall's wife, Bobbi, was understandably tired of this.

And Marshall warned us not to trust Joe Kirkland, who ran the town pool hall, next to Uncle Joe's store, and who had also been very attentive. "He wants to be in Joe's will," Marshall said. Oddly, when we visited Joe Kirkland, he said much the same thing about Marshall.

(When told of the other's allegation, each denied it. "We take our friend Joe Kirkland with a grain of salt around here," Marshall said, adding, "What anybody thinks is their business. It's my nature to help people who need help." For his part, Joe Kirkland said, "I don't know anything about that. I don't have anything to hide." And yes, there is a will -- at least we think Uncle Joe still has one. My father saw it in 1986, when Joe was recuperating from a bad car accident and Selma was dying. I am the sole surviving beneficiary.)

We also visited some family friends who were prominent lawyers: Harry J. Altman, now a state Superior Court judge in Thomasville, and his wife, Gail Lane, who is in private practice. We needed some legal advice.

Neither my father nor I could afford to pay for Joe's care ourselves. And there was no reason to. Joe had saved well and purchased plenty of insurance. But because he brushed aside our entreaties to pay his bills, we would need authority to pay them out of Joe's accounts, requiring a power of attorney, a trust or a court decision declaring Joe incompetent to handle his own affairs and naming one of us as guardian.

Harry and Gail warned us against going to court. "If you do that, you will never forgive yourself," Harry said. "It's ugly." Gail offered legal help unless we proceeded with a guardianship.

But we couldn't get anywhere with Joe about a power of attorney or a trust. He simply

refused to talk about it.

MY father and I returned to Baltimore, and Dad continued to nag Joe. To our surprise, after a few months, Joe finally agreed that he might sell the business. I packed a bag and drove to Thomasville for -- I thought -- a few days.

But shortly after arriving, more problems came to light. Looking through the unopened bills on the living room floor, I spotted a thick envelope from the Internal Revenue Service marked FINAL NOTICE. Joe was behind on his taxes. The I.R.S. had put a lien on his business, house and bank accounts.

I wondered what other surprises I would find among the papers in Joe's store. The desks were piled nearly head-high with disorganized stacks. My girlfriend, Maureen Power, who had joined me for this trip, helped me spot useful documents.

At the bottom of one stack were the papers for a \$494 loan in 1936 to buy a Plymouth touring sedan. There were deeds and dozens of insurance policies dating to the 30's, a foot-tall stack of I.R.S. notices, Confederate dollars, loose coins, uncashed checks and certificates for stocks and bonds.

Unsure whether the certificates were valid, I took a few to a local bank. Most were worthless, I was told. But that wasn't the case for the stock certificates of Aflac Inc., parent of the American Family Life Assurance Company of Columbus, Ga.

"Would you like to know what these shares are worth?" the bank officer asked. "Sure," I said. She tapped some keys on a calculator, handed me the certificates and said, "\$630,000."

The magnitude of that number -- and the fact that the shares had been left to chance and the elements in the soggy mess of the store's open-air filing system -- made it all that much clearer to me that Joe couldn't handle his affairs.

And it made me all the more determined to round up his accounts and consolidate them with a good money manager. But to do that, I needed power of attorney. My Thomasville lawyers suggested a simple one-page document that said I could carry out any duty that Joe could. It was the kind of basic form that Joe could revoke simply by telling me so.

To get Joe to sign would take an act of divine intervention, so I enlisted the help of Joe's

rabbi, Stanley Garfein. "Just when you think you have been called on to do everything you can do as a rabbi, something like this comes up," he marveled.

The rabbi, a soft-spoken man, confronted Joe with the I.R.S. notice and explained that Joe needed to sign a power of attorney so that I could help him. Surprisingly, Joe agreed immediately, and even thanked me.

I could then gain access to Joe's private records. I canvassed the Thomasville banks looking for accounts -- Joe told me he had 40 spread all over the South. I found just a half-dozen. I also had Joe's mail diverted to me so I could pay his bills.

I thought things were finally going well until I tried to consolidate Joe's assets with a financial planner in Baltimore. According to the planner's broker, my power of attorney wouldn't do. Instead, for each of the nearly four dozen stocks and bonds, I would need to fill out, and have Joe sign, a separate power of attorney on a special brokerage form.

There was another surprise. A call to Aflac revealed that I hadn't found all of Joe's stock certificates. Joe's shares weren't worth \$630,000. They were actually worth more than \$1 million.

I was shocked by that discovery, but even more so by the dire picture the planner painted. Because Joe had done no planning, inheritance taxes would take a whopping bite -- maybe more than half -- out of his estate, now estimated at about \$1.3 million. I suddenly felt panicky -- as if this pending loss were somehow my fault.

But when the planner suggested a partial solution, I had to question my own intentions. The planner said the way to avoid the tax was to reduce Joe's estate, and the simplest way to start was for both my father and me to take a tax-free gift of \$10,000 a year out of Joe's accounts.

It was a tantalizing idea. As a freelancer, I live hand to mouth -- \$10,000 would make a huge difference to me. But not as huge as a \$1 million inheritance. And as I sat in the planner's office, my focus shifted from Joe to his estate. If I did nothing about the tax problem, it was my money that would go unnecessarily to the I.R.S.

But ultimately I was not comfortable taking the \$10,000. I called Gail Lane for advice, and she quickly brought me back to earth.

"Look at what has happened," she said. "In a few weeks, you have gone from trying to just pay Joe's bills and tend to him to trying to maximize his estate for yourself."

I realized I had lost my focus. There might be nothing wrong with trying to preserve Joe's estate, but getting him squared away had to come first. Gail's advice was to let the tax issue go, move to Thomasville and stay until Joe's accounts and his care were secured.

Toward the end of January, two months after Joe turned 95, I moved in with him to attend to him personally. This proved to be the worst move of all.

Heir to be or not, I still had to work. To do my freelance reporting, I needed a place for a phone, fax and laptop computer. I set up camp in Joe's store, taking two days to clear the debris from a pair of desks.

But I didn't get much reporting done. Each stack of papers yielded more overdue bills, for everything from fruitcakes (more than \$1,000 worth from Claxton Bakeries) to office-machine ribbons and time cards (\$68.38 owed to the Latham Time Company). The Georgia Department of Revenue told me that Joe had not filed or submitted withholding taxes on Boyd Hollis's salary since the fourth quarter of 1993. Nor had Joe filed personal taxes since 1989.

I ALSO found that Joe couldn't be left unattended for long. If I did not get home before he got hungry, he would try to cook for himself, usually with disastrous results, like the time he put an unopened tube of Pillsbury cookie dough in the microwave, causing an explosion followed by a molten flow of cookie lava into every crevice of the machine.

Supervision was required around the clock. Joe woke up several times a night. Sometimes he would greet phantom visitors in the living room. Sometimes he would call out from nightmares. Other nights, he would call me urgently. Once, at 4 A.M., I awoke with a start to his panicked shouts. I ran into his room, my heart racing. "What time is it?" he calmly asked.

Marshall Berman had arranged for one part-time caretaker for Joe. It was clear that I needed to hire a second. In fact, Joe's doctor said he was ready for 24-hour care and suggested an assisted-living center like Jefferson Place, just three blocks from his house. I visited Jefferson Place and looked into both residential and day-care programs. Joe would not

consider either.

Joe was becoming distrustful of me, and my lack of sleep undermined my ability to patiently face his frequent outbursts. He was angry that I was receiving his mail. He insisted that I not pay his taxes or bills. He didn't want caretakers in the house and implied that he was about to rescind the power of attorney. And he suspected me of stealing. Aflac's investor relations people told me that Joe called them about me. "He has no authority to take my mail," he bellowed. Accustomed to his calls, they didn't take it seriously.

Despite the warnings and my own misgivings, ultimately I felt I had no choice but to file for involuntary guardianship. I didn't know how to broach it with Gail, who had voiced such strong opposition to that tactic. I tried to ease into the topic with her, telling her of some recent episodes. Before I got too far, she suggested the guardianship route herself. She sent me to her partner, Roy M. Lilly Jr., who had expertise in family law.

In the meantime, I looked into selling Joe's business. Auctioneers told me that there was so little of value in the store that the best method of liquidation would be an auction by lot. That way, the valuable items, like Joe's low-mileage delivery truck, would be paired with cartons of out-of-date calendars. To get the truck, you have to buy the calendars."It saves you from having to cart it to the junkyard yourself," one auctioneer said.

Then came the blowup. Although I had warned the caretakers to keep Joe away from the store -- just the fact that I cleaned it up would drive him into a tantrum -- he appeared one day at the front door while an auctioneer was visiting.

"Joe Kirkland told me to hurry over here because you were fixing to sell my store," he said, referring to his friend from the pool hall. I reminded Joe that was what I was there for.

"No," he insisted. "You came down to run J. N. Rosolio," his name for the business. "And what have you sold since you were here? Joe Kirkland said you have been turning people away."

I reminded him that I was there because of the I.R.S. lien.

"No," Joe said. "You misrepresented yourself to the I.R.S. to get me in trouble."

That was the last straw. I blew up. "That's it," I shouted. "I've explained this over and

over. I've had it with you."

SOON after the shouting stopped, Joe changed the locks to the store. Although I still had power of attorney, the local locksmith was reluctant to let me in. We agreed that I would enter only to remove my files.

Needing a place to live, I moved into Jefferson Place, the continuing-care facility where I had hoped to move Joe. When I told friends about my new address, one of them captured the irony of it all. "So let's see," he said. "You went to Georgia to put your great-uncle in a retirement home, and now you're living there?"

Even while Joe and I were battling, I had to make sure he was taken care of and that his bills were paid. I visited him every day and kept in touch with the caretakers.

I had largely lost touch with Marshall Berman, who had handled so many of my uncle's daily requests. Worried that I was losing control of the situation, and thus putting my uncle's future in limbo once again, Marshall surfaced with an agenda of his own.

Marshall had long dreamed of opening a home for elderly military veterans. When he approached me earlier about becoming a business partner, I demurred -- I'm not a businessman, and I know it. He later suggested starting the home in Joe's house, moving in veterans to keep Joe company and defray the cost of his care. I demurred again.

And Marshall, indefatigable, had asked my lawyer whether he might become the guardian. He offered Mattie Minchew, one of Joe's caretakers, a job in the home he hoped to open in Joe's house. Joe would become an investor, he told Mrs. Minchew.

As the court date approached for the guardianship hearing, my lawyer and Joe's lawyer, Paul McCollum, who was brought into the case by an intermediary, tried to work out a compromise. Joe wasn't much involved in the negotiations, nor was I.

At one time, I had been assured that as Joe's only blood relative, I would be named guardian. But Joe had since denounced me as evil incarnate, a position his lawyer would dutifully advocate. The court would grant guardianship to any able person Joe picked. His choice was a rough-hewn ex-policeman named Phil Chastain. I didn't understand the choice because the two argued constantly, but at least Phil seemed dependable. As for Joe's assets, his lawyer wanted to put them into a trust at a local bank.

THE court scene was not what I had expected. We met in the chambers of Judge Sallylu Hart of Thomas County Probate Court. Present besides the judge, the lawyers, Joe and me, were Rabbi Garfein, whom I suggested as a possible guardian, Marshall Berman and his wife and Joe Kirkland. Judge Hart called my lawyer Bubba. It seemed pretty informal.

Before the hearing began, the judge and the lawyers met in the hallway working out last-minute details. Joe's deal breaker was that I shouldn't be involved. My deal breaker was that Joe Kirkland shouldn't be named the guardian. I took his presence at the hearing as an implicit threat that my uncle's lawyer might propose him for the job.

Throughout the hearing, Uncle Joe was nearly incoherent. Asked whom he would like to be his guardian, Joe replied, "I'd rather not say." His lawyer, after prodding him unsuccessfully for an answer, eventually spoke for him, naming Phil.

Then Joe asked to make a statement. He set about excoriating me to the judge. During his disjointed accusations, the judge instructed the lawyers to draw up guardianship papers. She named Phil the guardian of Joe's person and a bank as the trustee of his property. Marshall Berman never got an opportunity to speak about his interest in becoming guardian. The hearing broke up with Uncle Joe still denouncing me.

Although I knew the likely outcome before the hearing began, it was still difficult to accept. I had failed at what I had set out to do -- someone from outside the family was now going to look after Joe.

As Joe walked into the hallway, continuing to describe me in unflattering terms, I tried to mask my hurt. But the judge must have noticed. "I think I just did you a favor," she told me.

There certainly was a sense of relief in handing off the financial dealings to the bank. It was a complete break -- I would no longer be privy to the handling of Joe's estate, a process that would be entirely confidential.

Since I returned to Baltimore in late March, Uncle Joe seems to have forgotten what transpired. We are again talking by phone, about the same things we discussed before I went to Georgia -- the Shriners and the store, which still has not been sold. Phil calls my father monthly, or more often if there is news, as when Joe fell down at a doctor's office and needed

six stitches in his leg. Joe now has caretakers coming into the house seven days a week, but only during the day. And while Joe Kirkland still visits, Phil won't let my uncle go out with him for a drive.

I guess I accomplished some things, and my dad and I have reaped some benefits. For one thing, my father has set up a trust and left instructions in case he is unable to handle his own affairs -- so I won't have to go through this again.

And after dealing with Joe's mounds of paperwork, I am mending my own pack-rat ways. Every other weekend I go into the basement with two trash bags and emerge when they are full. I have cleaned and organized my desk. And I am paying my bills on time. Usually.

***Correction:** September 14, 1997, Sunday An article on Aug. 10 about the author's efforts to put the financial affairs of his great-uncle in order misstated the men's relationship. The author is his great-uncle's nearest living relative, but not by blood; the writer was adopted. (A message from a reader dated Aug. 29, pointing out the error, was delayed in routing at The Times.)*