

STATEMENT OF EUGENE B. DAVIS TO THE SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS OF THE HOUSE COMMITTEE ON BANKING
AND FINANCIAL SERVICES ON MAY 3, 1999

Good Morning:

My name is Eugene B. Davis and I reside at 203 North 13th Street, Wilmington, N.C. 28401. I am here to tell this Subcommittee how my sickly 90 year old Uncle was taken advantage of by his niece and her husband and literally stripped of everything he owned including money and real estate. I had my Uncle take the matter to the Brooklyn District Attorney where the matter is presently under investigation.

My Uncle Charles Brown has lived in Brooklyn all his life. He has also worked hard all his life to accumulate some savings and two houses, mortgage free, one of which is located in Brooklyn. His wife passed away a number of years ago. He now lives on his social security check and the rents that he collects from his roomers.

In February 1998, my Uncle was found very ill in his home. Because of his illness, his niece and her husband came up to visit him and ended up getting from him a Power of Attorney to take care of him despite the fact that both reside in Newark, Delaware. Within 10 days of the signing of the Power of Attorney, they convinced him to Deed over to them the titles to both houses that he owned. They also closed his bank account containing about \$13,000. and kept most of the money for themselves. The original agreement, according to my Uncle, was that the niece and her husband were supposed to take care of him and his physical needs including collecting the rents from the roomers, and paying all the bills that became due.

It soon became obvious that the niece and her husband had no intention of carrying out their responsibilities under the oral agreement. As noted above, they immediately closed his bank account and took the \$13,000 for themselves. Within a week of taking title to his house located in Brooklyn, they had contacted a local mortgage company about taking out a mortgage on the house. On June 4, 1998, they closed on a mortgage for \$168,850. on my Uncle's Brooklyn residence. (His house was valued at \$307,000.) They never made a single payment on that mortgage and the mortgage presently is in foreclosure. My Uncle knew nothing about this mortgage until he received a letter advising him the mortgage was in default. Unless something drastic is done, my Uncle stands to lose his home and be evicted.

The question is where did the \$168,850 mortgage proceeds go? I am advised by the District Attorney that investigation revealed that the niece and her husband used the proceeds of the mortgage loan to pay off all their debts associated with a Bankruptcy proceeding that they had filed in the Bankruptcy Court in Newark, Delaware in September 1997. No one knew that she had filed for

Bankruptcy and was so deeply in debt when my Uncle gave them both a Power of Attorney. It was an invitation to them to steal from this sickly, elderly gentleman and steal they did.

As to taking care of his physical needs and tending to his bills, my Uncle tells me that his niece and her husband did very little in this regard. Some bills were paid but most were paid late endangering his credit standing and the services involved. Some bills were never paid until my Uncle realize that something was seriously wrong. When he received a notice that his mortgage was in default he realized then that something was drastically wrong since he had no mortgage on his home and knew nothing about this mortgage. At this point, he consulted a lawyer and had the Power of Attorney revoked. To this day, he is still trying to catch-up on many of the bills that were never paid. Rents were collected but my Uncle was never advised of what happened to these funds and believes that his niece and her husband stole those funds as well. Although my Uncle has taken the case to the District Attorney, we were also advised to retain a civil attorney. This is very difficult for him to do since he no longer owns any property, is trying to pay his past bills, and lives on a limited income. Both my wife and I, as well as his sister-in-law, are trying to help in retaining a lawyer to protect his rights. All of us however are living on a fixed, limited income and soon it is difficult.

To add insult to injury, after the niece and her husband paid off the mortgage on their house in Delaware, they took out another mortgage for \$60,000 on that same house. This action appears to be aimed at defeating any lawsuit my Uncle might file against them since should he recover a money judgment, collection of that judgment would be subject to the Bank's 1st mortgage on that house.

To conclude, I know that the niece and her husband expected my Uncle to pass away long before any of their dishonesty was discover. They still hope that he will die thereby making it more difficult to prove their criminal conduct in this matter. We are all relying on the District Attorney's Office to bring the niece and her husband to Justice and to force them to return my Uncle's property and money. As I understand the D.A's concerns, the presence of the Power of Attorney complicates a criminal prosecution because of the broad powers that it confers upon the Agents, in this case the niece and her husband. My Uncle does not necessarily want to see his niece and her husband in jail but he does want his property returned.

My appeal to this Subcommittee is that everything that can be done to protect vulnerable, elderly people from financial exploitation should be done. And if convenience accounts would make it easier for a District Attorney to prosecute those who victimize the elderly, then I would hope that this Subcommittee could find someway to require banks to offer these accounts. Older seniors

like my Uncle deserve some protection in their old age from those who target them for financial exploitation.

Thank you for this opportunity to appear and make this statement.