

STATEMENT OF LEON VOLKSIS TO THE SUB COMMITTEE ON
OVERSIGHT AND INVESTIGATIONS OF THE HOUSE COMMITTEE ON BANKING
AND FINANCIAL SERVICES ON 5/3/99

Good Morning:

My name is LEON VOLSKIS and I reside at 84-19 101 Street,
Richmond Hill, N.Y. 11418.

My Mother is presently 81 years old and has been seriously ill for a number of years. Although she is physically incapacitated, she is very much mentally alert. She has been a resident of Brooklyn just about all her life. She has two sons of which I am the younger. Because of her illness she is pretty much bound to the house. What follows in my statement to this Sub-Committee is a compilation of information I have learned from speaking with my Mother, representatives from the bank, a review of the pertinent records, consultation with personnel from the Brooklyn District Attorney's Office and my own personal knowledge.

For many years my Mother maintained a bank account at a local bank. A number of years ago, she added my older brother's name to the account as a convenience to her so that he might have access to these funds in the event of a medical emergency. At the time, he was living at home with her and it was her intention to allow my brother to access the account so that her bills would be timely paid if she were physically unable to pay them. It was also her intention that my brother should receive whatever funds were in the account should she pass away. At the time my Mother added my brother's name to the account, she gave the bank written

instructions to the effect that the account could not be closed without her consent.

On May 29, 1996, without my Mother's knowledge or consent, my brother closed out the account withdrawing the sum of almost \$50,000.00. He did it by presenting to the bank a letter allegedly signed by my Mother and sworn to before a Notary Public, consenting to the closing of the account. At the time, a representative of the bank telephoned my Mother's home and spoke to a woman who identified herself as my Mother's home-care attendant, which she was not. This woman confirmed to the bank representative that my Mother did indeed wish to close the account. Unbeknown to the bank representative was the fact that he was speaking with my brother's girl friend and who was in on the scheme to defraud my Mother. My brother has since moved out of my Mother's house and now lives with his girl friend.

The theft of the funds was not discovered until late 1996 when my Mother was hospitalized and I was looking for various papers that she needed in connection with her hospitalization. I reported the matter to the police but they were of the opinion that no crime had been committed because despite the restriction, the account was still a joint account permitting either party to withdraw all or any part of the funds on deposit. In January 1997, I took the matter to the Brooklyn District Attorney's Office which opened a preliminary investigation.

The D.A.s investigators located the Notary who supposedly acknowledged my Mother's sworn signature at a bank in upper

Manhattan. While the Notary admitted that he took the signature, he could not recall any other details because he said, the signature had been taken some seven months before. The monies were also traced by the D.A.'s people to another bank account where my brother had deposited the funds under the name of his girl friend's son. As soon as my brother learned that the D.A. was investigating the matter, he had his girl friend's son close out the account with a Bank Tellers check payable to himself. My brother then held the check for many months without depositing same anywhere. Although he was interviewed by the D.A.'s Detectives, he allegedly refused to cooperate in any way. The investigation was eventually closed by the Brooklyn D.A. without any arrest based on their legal conclusion that the account was in reality a joint account and under N.Y. law either party could withdraw any or all of the funds. The mere fact that the bank had agreed to my Mother's request that the account could not be closed without her consent was in fact a courtesy extended by the bank, but did not change the nature of the joint account for purposes of a criminal prosecution. Some months after the investigation was closed, my brother, through his attorney, presented the expired check to the bank and received a replacement check. He has never returned any of the funds to my Mother.

I am informed that if my Mother's account was a "convenience account" as opposed to a "joint account", that the D.A.'s Office might have been able to prosecute this case as a crime. I personally believe that if the bank had offered this type of

account (convenience) to my Mother, given her concern that my brother not be able to close the account without her consent, that she would have opted to put her money into this type of account. I would urge this Sub Committee to encourage the use of these types of accounts by all banks as they seem to offer at least minimal protection against unauthorized use of joint funds. In my Mother's case, I can assure you that she does not want to see my brother in jail. However, she still would like her money returned. Personally, I don't believe that will ever happen.

Thank you for permitting me to make this statement.