

STATEMENT OF VICTOR M. WILSON, ESQ. TO THE SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS OF THE HOUSE COMMITTEE ON BANKING
AND FINANCIAL SERVICES.

Good Morning:

I am VICTOR M. WILSON, an Attorney at Law with Offices at 189 Montague Street, Brooklyn, N.Y. 11201. I would like to relate to this Sub-Committee the experience of one of my former clients in which her niece stole thousands of dollars from her while a joint account holder in one of N.Y.City's largest banks. My statement today is based on conversations that I have had with a number of people including my former client, her friend of many years and former caretaker, a representative of the Brooklyn D.A.'s Office, an inspection of numerous documents relating to the matter as well as my own knowledge.

For purposes of confidentiality I will identify my former client as Mrs. "X".

I first met Mrs. X in 1996 when she was 92 years old and was living in Brooklyn. She had worked hard all her life, saved her money and by living frugally had managed to accumulate a respectable amount of savings both here and in the Island of Barbados, her original homeland. In 1995, she had a Savings Account in a Brooklyn branch of one of the largest Banks in N.Y.City amounting to just under \$100,000.

In September 1995, Mrs. X was hospitalized for some surgery. When she returned home to recuperate, a niece (who herself was in her 60's) approached Mrs. X and persuaded her that she needed help

in paying the bills and getting groceries, etc. The niece took Mrs. X to the bank, had her close out her Savings Account which then contained \$96,028.35, and open a joint bank account with the niece with \$94,880.70 from the closed account. (Note that the niece withheld over \$1000. in cash). As you know, under N.Y. Banking Law Section 675, which governs joint bank accounts, the niece now could legally withdraw any or all the funds in the joint account despite the fact that the niece contributed nothing to the account. In addition, should Mrs. X die, then the niece could legally claim the remaining funds on deposit.

In October 1995, the niece made three cash withdrawals totalling \$9,116.21. In November and December the niece made three cash withdrawals totalling over \$3,000.00. In January 1996, the niece made eight cash withdrawals totalling \$30,400. In February 1996, the niece made three withdrawals totalling \$9,139.93. Mrs. X never received any of these funds nor did she benefit in any way from these withdrawals.

Sometime in April, the niece went on a vacation trip to London and did not return for a number of months. During that time, Mrs. X, along with the help of an old friend, discovered the theft and closed the account. During a period of 5 months, the niece had removed over \$51,000. from the joint account without the knowledge or approval of Mrs.X. As previously stated, Mrs. X did not receive any of this money but was existing on her monthly Social Security check of \$650.00. The friend referred to above found her alone, slightly disoriented and with no food in the apartment.

The matter was reported to the Brooklyn District Attorney's Office who after a preliminary investigation informed me that under N.Y. State Law, since either holder of a joint bank account can legally withdraw any or all of the funds on deposit, there is no violation of any penal statute. However, I was also advised that if the funds had been deposited in a "Convenience Account" as authorized by Section 678 of the N.Y. Banking Law, then the D.A.'s Office could possibly have pressed criminal charges against the niece. The crucial question for a criminal prosecution would have been whether or not these funds were withdrawn and used for the "convenience" of Mrs. X. I was also advised that during the D.A.'s inquiry into the matter, it was learned that Mrs. X had originally expressed grave doubt's to the Bank's representative about opening a joint account with the niece and was advised by the Bank's representative to go home and think the matter over. The next day the niece and Mrs. X returned to the Bank and the joint account was opened. I am also advised that when questioned by the Assistant D.A. handling the matter, the niece admitted withdrawing all the cash but insisted that she did so at the request of Mrs. X and that she had turned over all the cash to Mrs. X. (Naturally she had no receipt or witnesses to the alleged turnover) When asked if she inquired of Mrs. X what she was going to do with all that cash, the niece allegedly answered "no", that it was none of her business since the money belonged to Mrs. X.

One of the things that disturbs me about this case is that I believe that the Bank in question in this matter is one of the few

banks in N.Y.City to actually offer "convenience accounts". For some unknown reason, the bank representative never took the time to either offer this type of account or to explain that this type of account was available to Mrs. X. It would seem to me that there should be a way to require that all banks operating in N.Y. State be required to offer "convenience accounts" to the elderly and/or disabled much the same way that Banks are required to offer "basic accounts". I would urge this Sub-Committee to work towards that goal. Seniors who work hard all their lives deserve as much protection as they can get in order to live out their lives with respect and dignity.

In closing, I'm saddened to report that I am advised that Mrs. X has moved back to Barbados where she has been financially victimized again, by another niece, in almost the same manner. As of this date, I don't know if she is still alive or not as she now has other legal representation.

I want to thank Congressman King and this Sub-Committee for the opportunity to present this statement.