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Good morning Mr. Chairman and ladies and gentlemen of the committee. Thank you for the opportunity to testify today about my experiences investigating the marketing and sales of living trusts to the elderly in Wisconsin.

My name is Elmer Prenzlow and I am a Consumer Protection Investigator Supervisor with the Wisconsin Department of Agriculture, Trade and Consumer Protection. We are Wisconsin's primary consumer protection agency and are tasked with ensuring fair business practices in the marketplace, educating the public, and investigating violations of Wisconsin's consumer protection laws. I currently serve as the Regional Manager for the Bureau of Consumer Protection where I direct our agency's education, mediation and enforcement activities in southeastern Wisconsin, serving the metropolitan Milwaukee area.

In October 1997, we began receiving consumer complaints alleging that a company called United Seniors Alliance was soliciting sales of living trusts for prices ranging between $900 and $1900. Telemarketers from United Seniors told many potential victims that they were calling from the American Association of Retired Persons, that A.A.R.P. was urging people to set up living trusts, and that A.A.R.P. had field agents to help people to set up these trusts, supposedly at no cost to the customer. Many living trusts are marketed responsibly to consumers each year. However, that was definitely not the case here.

In February 1998, a representative of United Seniors attempted to sell a living trust to the wife of one of our local chiefs of police. During the sales presentation, which was videotaped, the salesman repeatedly misrepresented that United Seniors was "certified" and "backed" by A.A.R.P., and had a "AAA rating" by the Better Business Bureau. He also misrepresented during the presentation that United Seniors "isn't for profit". These representations were false and after we investigated, the salesman was convicted of violating state consumer protection laws.

Appearing with me today are family members of Walter Kulinski, who was contacted by a telemarketer for United Seniors Alliance. This complaint was particularly interesting because it involved direct solicitations made by the owner of United Seniors as well as financial transactions executed by the owner of United Seniors and Mr. Kulinski. For the first time we were dealing with identifiable acts committed by the principal of this trust company.

During the course of six months of contact between Mr. Kulinski and United Senior's owner, the victim was first sold a living trust. He was then pressured into purchasing annuities valued at $224,000. These annuities were sold without the victim understanding the impact on him, his informed consent, or knowledge of the tax implications of his acts. Then, in an attempt to further shield their fraudulent activities, United Seniors failed to provide the annuity policies to the victim for detailed examination during the cancellation period.

United Seniors liquidated approximately $280,000 of Mr. Kulinski's assets. This was $56,000 more than the amount agreed to in the annuity sales contract. United Seniors placed these funds into an annuity with a supposed 7 ¼ % rate of return when, in fact, it was only 7 ¼ % for the first year, dropping to 3%

thereafter.

Finally, the owner of United Seniors attempted to obtain over $326,000 more by convincing Mr. Kulinski to sign asset transfer authorizations for four other investment accounts. These transactions were halted when an alert bank employee flagged the transfers until family members could be contacted. Felony theft and other related charges were filed against the owner of United Seniors as a result of our investigation and ultimately, Mr. Kulinski was able to obtain refunds and restitution in excess of $290,000. United Seniors operations in Wisconsin were shut down as well.

In Wisconsin, dealing with the problems associated with fraudulent living trust mills provided the Bureau of Consumer Protection with several lessons learned. We hope that our experiences will be a benefit to your committee as you examine this issue.

We found during the course of numerous victim interviews that revocable living trusts are being fraudulently marketed to senior citizens and the marketing takes advantage of the following concerns reported by seniors. They are:

- that the government is going to take a significant percentage of your assets when you die,
- that attorney's fees and probate costs will significantly diminish the value of any estate,
- that long term medical care costs can be avoided and subsidized health care can be obtained through the transfer of assets into trust, and
- that delays in the probate process will freeze assets from a surviving spouse or heirs.

Our investigations highlighted several common problems associated with revocable living trust "mills":

- The trust package documents themselves may contain legal flaws rendering them unenforceable and potentially worthless.
- The trusts are plain "boilerplate" packages, generated by the hundreds, and not tailored to the unique and individual needs of each customer.
- Trust salespersons have no ethical or fiduciary responsibility to act in their customer's best interests.
- Trust salespersons are poorly trained and generally unregulated unless involved in the sale of insurance products, and are motivated only by the commission earned on sales.
- Trust presentations are often untrue and misleading, preying on the unfounded fears mentioned earlier to a target population, which is, at best, susceptible to deception and may suffer from effects of aging such as diminished capacity and comprehension.
- Trust salespersons may use the detailed financial information gained in the preparation of a trust to market investments, insurance or annuity products inappropriate for the customer's financial situation.
- Increased commissions on sales have, in the past, been paid on investments or annuities with artificially lowered rates of return.

Our department embarked on an aggressive two-pronged campaign in 1998 to investigate living trust sales practices. We recommended prosecution for violations of state law, and educated the public regarding problems within the industry. Using the media, we conducted an extensive education campaign surrounding the enforcement action taken against United Seniors and its sales staff. This made the public more aware of what to look for when shopping for estate planning products and some pitfalls to avoid. It also put trust salespersons on notice that deception and misrepresentation would have criminal consequences. As a result, complaints about living trusts, which peaked in 1998 at 104, dropped to an all-time low of 5 in 1999. One example of our effort is a widely distributed fact sheet, which we provide to the public online at our web site, to callers at our toll-free information line and through personal appearances at senior's seminars throughout the state. A copy of this fact sheet is attached to my testimony.

Unfortunately, unless those committing fraud serve substantial jail time, the con artist may merely move to another state to defraud its unknowing senior citizens. For this reason, we appreciate the committee's interest in this area.

Thank you for drawing attention to this important issue, Mr. Chairman. This concludes my remarks, and I would be happy to answer any questions you or the other committee members might have.