

Prepared testimony of Erika Flavin
Before the
United States Senate Special Committee on Aging
January 16, 2019

**NOTE: I have attached the testimony of Thomas M. and Elfriede Flavin starting on page 5 of this document.*

I would like to take this opportunity to thank Ranking Member Senator Casey and Madame Chairperson Senator Collins for inviting me to speak regarding the recent scam that was perpetrated on my parents. Before I start, I would just like to give you a bit of background about my parents. My father, Thomas Michael Flavin Jr. was born May 30, 1942 to Thomas Michael Flavin Sr. and Thelma Elizabeth Flavin (nee Pharoah). My grandparents were born around 1920 and were young children when the Great Depression started, and my father was born about 6 1/2 months after Pearl Harbor. My grandfather spent time on Okinawa after the worst of the fighting was over. My grandmother, Tilly, to her friends and family, was a stay at home mother who, along with my grandfather, (affectionately known as Zeke to family and friends) raised five children. My father was the oldest, in order after him, was a brother Timothy, a set of twin sisters, Sally and Susan, and the baby of the family, Joseph. Timothy and Joseph are deceased. By all accounts, my father had a typical blue-collar upbringing in the town he still resides in to this day.

My mother, Elfriede Erika Flavin (nee Glasner) was born December 14, 1940 in Munich, Germany. My mother was one of eight children born of Johanna and Karl Glasner. Her siblings are (in order of birth) Kurt, Johanna, Inge, Lisa, Karl, and twin brothers. Kurt, Karl, Lisa and her twin brothers are all deceased. My mother doesn't talk much about what it was like growing up in post WWII Germany but two stories she has shared indicated a home that contained an abusive, alcoholic father and serious poverty. Her father and her brother Karl committed suicide. Needless to say, her upbringing and life was difficult.

My father graduated high school in 1960 and joined the Army shortly after. He was sent to Munich, Germany and met my mother through his roommate who happened to be dating my aunt Lisa. My mother gave birth to my older brother in 1962 and made her way to America to join my father, all the while pregnant with me. My sister would join our family in 1965.

My parents did a variety of jobs. My father worked as a hospital orderly before he discovered that the sight of blood made him queasy. He also worked as a machinist making snow plows, a production worker in a brewery and lastly as an administrative clerk for the local Army Reserve Center in town. During this time, he was also a member of the Army Reserve. My mother worked in a variety of light manufacturing jobs. First making the old mercury thermometers, and then making motors for small hand tools like drills and saws. After she sustained a work-related injury, she was medically retired and did substitute work as a teacher's aide working with special needs children.

Growing up in our house was, what I would consider to be a typical blue-collar upbringing. We always had a roof over our heads, nutritious food, and clothing for all seasons. Our family vacations were simple and most of our summers were spent at my grandparent's cottage, which my parents purchased from them years later.

I first found out about my parents being scammed through a Facebook post from my nephew, who just happened to be "the grandson" in this story.

In a nutshell my parents were contacted by someone claiming to be a lawyer representing their grandson. Their grandson had been involved in a DUI that resulted in an accident. He was being held in a jail in Tennessee and according to this phony lawyer, my "nephew" was begging my parents to post bail for him so he could get out of jail. When my parents agreed to send the money, the phony lawyer told them they were under a gag order and could not share this information with anyone. When all was said and done, over the course of three phone calls, my parents sent the phony lawyer money for bail and to pay for damages that their grandson had allegedly caused. My parents withdrew cash each time

and sent it to addresses in Upper Darby, PA (1 time) and two addresses in New York City. When my parents were contacted a fourth time for money, for a retainer, they told the phony lawyer that there was no more money to give and that he would have to contact my nephew's parents to arrange for money for a retainer. That was the last they heard from him. When they did not get the money back that they had put up for their grandson's bail, they contacted my sister. She quickly called her son and put him and my parents in a 3-way conversation. Their grandson was exactly where he was supposed to be...studying at his college in Buffalo. It was then that my parents knew they had been scammed. My parents contacted local law enforcement to file a police report, but they knew that there was no way that they were getting back any of their money.

I would like to tell you now about how this crime has affected my family. Financially, my parents are now out \$80,544. This was the majority of my father's Thrift Saving Plan. This was money that was supposed to be used to help with those necessary life expenses one incurs as they age. For example, hiring someone to come and help them open up the cottage annually, home and vehicle repairs, etc. Between their social security and pension, their day to day living expenses are covered. I'm grateful that they did not take out any loans or second mortgages on their home to pay for the money they sent. Even sadder still, there is nothing to protect them or anyone from these "emotional" transactions. As long as they have the collateral and a good credit rating, there is nothing stopping a bank from underwriting these types of loans that could potentially imperil their financial safety. My father had to sign a document at his bank stating that he was making this withdrawal under his own power and wasn't being coerced in any way. My father also spoke to the banker afterwards and the banker admitted that he thought something was going on, but he was not allowed to say anything. I disagree vehemently. While the banker does not have the right to stop my father from taking out his money, I fail to see how a bank representative going up to someone and stating "We see that you have made some very large cash withdrawals and we are concerned. We would like to take a few minutes to share with you some

information about scams that are targeting the senior population". I'm pretty sure that had that happened in my parent's case, my parents would have thought twice about what they were doing. The emotional wreckage that this whole thing provoked is, to me, far worse. My mother is in a constant state of anxiety and feels that she is a bad grandmother because she failed to recognize that the voice on the other end of the phone was not her grandson but some imposter who was telling them the change in his voice was due to his broken nose from the accident. My father has flashbacks to a time when his younger brother was arrested, and his parents put up their house for bail and had to pay a lawyer \$20-30K to defend him. I can't imagine that was easy money to come by in the early 1960's for a blue-collar family. Both feel utterly humiliated and embarrassed about being taken advantage of like this. The local news station did a short piece about them and they did not want to appear on camera but gave a telephone interview. Even though they are embarrassed and humiliated, they felt that getting this information out there was even more important. I am here because they felt that this story was one that needed to be told in order to create protections for seniors who are targeted by these scams.

I cannot speak as to what exactly went through the minds of us three kids, but I can say that we were all very sad that our parents had to go through this all alone. Remember, they were told that they were under a gag order and they believed it. Their grandson asked them not to tell his mother (their youngest daughter) and they wanted to respect his wishes. I also understand that many people in my parents' generation do not understand the evil that can be wrought via the internet and social media. In my parent's case, it never occurred to them that the person on the other end of the phone was not who they claimed to be. I was visiting them when the local detective stopped by to take their statement. I overheard my parents explaining what happened and it was all I could do to not scream, "NO...it doesn't happen like that." It breaks my heart that the faith and trust that my parents placed in people was taken advantage of in such a despicable manner. My father, as a hobby, writes fan fiction based on his

interest in space travel. He's a pretty good writer but this incident has really traumatized him emotionally. I am attaching his written testimony at the end of this document, typos and all, to show just how much this affected him.

In closing, I would again like to thank Senator Casey for inviting to tell this story and my parents for giving me permission to share their story in the hope that it can help someone else.

Written testimony of Thomas M. and Elfriede Flavin, Jr.

Testimonial on the effects of a "Grandparents Scam" performed on Mr. Thomas M. Flavin and wife Elfriede E. Flavin.

17 September 2018: Elfriede received a call from what she thought was our grandson Michael Montgomery.

'Michael': 'Hi grandma, are you busy, can I talk to you?'

Elfriede: I am never too busy to talk to you.

'Michael': I got into a little bit of trouble, can you help me out?

Elfriede: What kind of trouble? Where are you?

Michael" I am in Tennessee, I went with my friend because his father died from an aortic aneurism. Can you keep a secret?

Elfriede Yes, what happened?

Michael: They had two beers and they caught me because he had a car accident and took me to jail for DUI. It is going to cost him \$10,000.00 dollars to get out of jail.

Elfriede: You should call your parents

Michael: I can't, I will tell them when I get home. I have a number for you to call Jade at 931-444-6433.

The connection was terminated at this point.

We had a discussion of the matter when I had returned from working at the American Legion.

I can say at this time that Elfriede really thought she was talking to her grandson. I had no reason to doubt her.

We called "Jade" at the given number and were referred to a man identifying himself as Mr. David Thomas, attorney, and a public defender for Michael.

He explained, at what we both thought, in a profession manner, that my 'relative' was involved in a two-car accident that involved personal injuries, and because he was from out of state, the district attorney thought he would be a possible flight risk and wanted him jailed for \$10,000.00 bail money.

As Michael was from out of state Mr. Thomas was having a hard time finding a bail bondsman and only could get a cash only bondsman because Michael had no credit. He also explained that Michael had suffered from a broken nose and required stitches. He also stated that if we agreed to put up 'our relative's' bail we would be under a court ordered gag order and would not be able to discuss his case with anyone except his public defender and us as his only personal contact while our relative was incarcerated. Phone calls were restricted while he was incarcerated and then only in the presence of his attorney.

As we had agreed with 'Michael' to keep his secret we agreed to put up his bail and send the required money. We understood all through the process of the scam that we were putting up bail monies that would be returned as soon as 'Michael's' case number, K3466-201 was settled. We were then instructed to forward the money through FedEx, in care of Michael Montgomery, 205 Long Lane, Upper Darby, PA 19082. The money had to be wrapped in carbon paper, to prevent X-ray scanning, and theft by FedEx workers. This was done, and the FedEx receipt faxed through Staples to Fax# 1 877 807 5822.

19 September 2018

On 19 September we received a call from 'Attorney Thomas' that there was a complication with 'Michael's' case. The person injured in the vehicle that 'Michael' had hit was driven by a woman who was pregnant and as a result of the accident she had lost the baby.

Our 'relative' was now being held on a possible 'Vehicular homicide' charge. Our 'relative' was now possibly facing two to ten years in prison if convicted, and the bail was raised from \$10,000.00 to \$50,000.00. At this point we were essentially horrified, both for my grandson, who was looking for a career as a lawyer, and for the mother with the lost child. Elfriede was in tears.

The situation of having my grandson in jail out of state, faced with a criminal charge and having to share the guilt of a woman losing her child because of an accident, we felt terrible. Being still under a court ordered gag order, we could talk to no one was excruciating.

I personally had flash backs to when my younger brother during the late 1960's was incarcerated.

Family history: Back in the late 1960's, New York State passed a helmet law for motorcyclist. Get caught riding without a helmet, you went to court and were fined. If you did not pull over when signaled and they caught you, you faced a 'Flight to avoid prosecution charge'. This happened to my brother. A local nightspot was picked by NYS Trooper because of it being a place where people who were riding the early light Japanese motorcycles were hanging out at. At closing time my brother (aged 22) went about fifteen miles without his helmet, before he was captured while hiding in a used car lot that had no escape exit. During his arrest, one of the troopers stepped into an overgrown culvert and broke his ankle. The result was my brother was charged with assault, over and above the charges of ridding without a helmet and flight to avoid prosecution. My parents had to put their home up for bail and hire an attorney, at least \$20-30,000 at the time. My brother went to jail for six months, even though the assault charge was dropped. I felt the fact that as long I had the money to pay the extra bail money, I would pay it. Again, I went to my bank to take out the money where the bank manager had me sign an affidavit that I was not in so many words 'being taken advantage of'. I was unhappy about the situation but said nothing. I was still under a court gag order.

We wrapped the monies as Mr. Thomas directed for FedEx. During our discussions, he asked me to verify that we had sent the \$10,000.00 because the bondsman said they only found \$5,000.00 in the FedEx envelope. I told him in no uncertain terms that I had put the money in as directed and if they say they have only \$5,000.00, someone else had stolen it, or someone was lying. He responded the he was only checking with me. He knew that insurance would cover the loss. The money was sent via FedEx to: I/C/O Michael R. Montgomery, 635 W 170th ST, Apt 5D, New York, NY 10032, on 19 September 2018 and the FedEx receipt faxed through Staples to 1 877 807 5822.

21 September 2018:

On this date we received a call from Mr. Thomas informing us that my 'relative' was now a free man with some conditions. He was not charged with assault; his DUI charge was reduced under the condition that he be enrolled in a DUI counseling program and upon completion of the program his record for the state of Tennessee would be expunged. Mr. Thomas was making arrangements to have him enrolled into a local program either near his home or college. For him to be released he would be required to pay for the damages to both vehicles that his personal vehicle insurance did not cover. That came to \$30,544.00. We would receive back the bail money we had sent within a week to ten days as soon as the state finished the paperwork. If and when we sent the money for the vehicle damages Mr. Thomas would let Michael stay at his residence and in the morning furnish him a bus ticket to either his home or back to college. During this process we did receive pleading calls from 'Michael' promising to pay us back no matter what. So, I went back to the bank. The \$30,544.00 was sent through FedEx per instructions to: I/C/O Michael R. Montgomery, 108-20 46 Ave, Apt 3A, Corona, Queens, NY 11368.

Then we waited for Michael's return to explain to his parents what had happened.

About 28 September 2018 we received a call from Mr. Thomas that he was in a dilemma. Apparently, his law firm accused him of violating his Public Defenders status by him being hired by us as being Michael's personal attorney for the vehicle damage settlement, it was supposed to be a separate case and he

needed \$20,000.00 to rectify the situation or his career would be ruined. He didn't have the money and asked that as he successfully defended our relative that we 'give' him the money so he could keep his license. I told him I was sorry, but I would not hire him as an attorney, I only agreed to pay for bail and vehicle damages. If he wanted to be belatedly retained as Michael's attorney, he must call Michael's parents. They would have to be the responsible party. He did not sound happy and that is the last we heard from him.

We then defied the court's gag order and called our daughter to inform her that Michael was in jail in Tennessee and need a lawyer right away. Right away after talking with my daughter, Michael's mother, we found we had been thoroughly scammed.

At first, we felt foolish, how could this happen to us? It seemed so real. We dealt with thoughtful caring people, we thought. Mr. Dave Thomas acted the professional, he obviously knew more about court procedures that we did.

It seemed more people, including my own children knew about the 'Grandparent scam' than we did. We watch Dr. Phil and knew about African love scams and were familiar with some investments scams, but if there was a scam of grandparents involving their loved ones, it wasn't anything that we recollected during the whole process of being scammed.

I am a Department of the Army civilian retiree after twenty-five years of service with the Army Reserve. The thrift savings plan that I paid with matching federal money has been effectively lost.

We are bent but we are not broken, we will survive this incident. In a way it feels like a sad death in the family. If you are not busy thoughts creep into your head, why, how could people do this to other people, I gave away \$80,544.00, how could I be so stupid. An incident or an innocent conversation can set of feeling of sadness bordering on depression. You have to fight it and not let it get you down. We realize we will never see the money. We still have a mortgage, two ten-year-old cars, two cats and our family.

Thank you again Senator Casey and Senator Collins for inviting me here to tell my parent's story.