WRITTEN TESTIMONY OF

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On behalf of the Investor Protection Trust and the Investor Protection Institute

To the

SPECIAL COMMITTEE ON AGING
U.S. Senate

"Justice for All: Ending Elder Abuse, Neglect and Financial Exploitation"

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Chairman Kohl and Members of the Special Committee, Subcommittee, this written testimony is being submitted by Don M. Blandin, president and CEO, Investor Protection Trust and the Investor Protection Institute,[1] and Robert E. Roush, EdD, MPH, director of the Texas Consortium Geriatrics Education Center and principal investigator, EIFFE Grant, for the Huffington Center on Aging, Baylor College of Medicine, Houston, Texas.

Our testimony focuses on the national **Elder Investment Fraud and Financial Exploitation (EIFFE) Prevention Program**, a unique collaboration between the Baylor College of Medicine and the Investor Protection Institute to help train doctors to screen for older patients deemed vulnerable to elder investment fraud and financial exploitation. We are currently working in 23 states and the District of Columbia and Puerto Rico,[2] via a coalition of state investor educators formed by the Investor Protection Trust, which funded both a Texas pilot project and the new national program.

SCOPE OF THE PROBLEM

As is outlined below, new medical research showing that more than a third of Americans over the age of 71 having mild cognitive impairment (MCI) or Alzheimer's disease that make them particularly susceptible to investment swindles and other financial abuse.

How big is the resulting financial abuse problem?

A March 2009 study, "Broken Trust: Elders, Family and Finances," funded by the MetLife Mature Market Institute showed that financial losses by exploited seniors could be as high as $2.6 billion a year. [3] Survey results released on June 15, 2010 (World Elder Abuse Awareness Day) by the nonprofit Investor Protection Trust and Investor Protection Institute found that as many as one in five older Americans say they have experienced financial exploitation or been targeted by persons attempting to defraud them of their hard-earned savings.[4]

Key findings of the IPT survey of 2,022 American adults – including 706 adult children with at least one parent aged 65 or older and 590 adults who are aged 65 or older and have children – include the following:

- Half of older Americans exhibit one or more of the warning signs of current financial victimization. For example, more than one out three seniors (37 percent) are currently being pitched by "people (who) are calling me or mailing me asking for money, lotteries, and other schemes," while a much lower 19 percent of adult children believe that their parents are being pressured in such a fashion.

- Almost half of those aged 65 or over (44 percent) got at least two out of four questions wrong about basic investment knowledge.

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[1] The Investor Protection Trust (http://www.investorprotection.org) is a nonprofit organization devoted to investor education. The primary mission of IPT is to provide independent, objective information needed by consumers to make informed investment decisions. Founded in 1993 as part of a multi-state settlement to resolve charges of misconduct, IPT serves as an independent source of unbiased and non-commercial investor education materials. IPT operates programs under its own auspices and uses grants to underwrite important investor education and protection initiatives carried out by other organizations. The IPT provides investor education at both the state and national levels. The Investor Protection Institute (http://www.protectinvestors.org) is a nonprofit organization that promotes investor protection by conducting and supporting research and education programs.

[2] Participating states and other jurisdictions are: Alabama; California; Colorado; Connecticut; Delaware; District of Columbia; Georgia; Idaho; Illinois; Indiana; Iowa; Kentucky; Michigan; Nebraska; North Carolina; New Jersey; New Mexico; Oklahoma; Oregon; Pennsylvania; Puerto Rico; Tennessee; Utah; Vermont; and Washington.

[3] See http://www.metlife.com/assets/cao/mmi/publications/studies/mmi-study-broken-trust-elders-family-finances.pdf.

[4] See http://www.investorprotection.org/learn/research/?fa=eiffeSurvey.

- About one out of three older Americans (31 percent) says they are vulnerable in one or more ways to potential financial victimization.

- Only 5 percent of adult children in touch with their parents' doctors report "the healthcare providers ever mention[ing] any concerns about your parents handling of money or relayed any concern from your parent about handling money." However, of that same group, nearly one in five (19 percent) report the health care provider has mentioned concerns about "your parents' mental comprehension." Only 2 percent of Americans aged 65 or older say that their healthcare provider has ever asked about "how you are handling money issues or problems."

- Four out of 10 children of parents 65 or older are "very" or "somewhat" worried that their parents "have already become or will become less able to handle their personal finances over time." Among those over the age of 65, more than a third (36 percent) are "very" or "somewhat" worried about being less able to handle money issues over time.

THE MEDICAL DIMENSIONS OF THE PROBLEM

There is a neurobiological basis for seniors' increased vulnerability to investment fraud and financial exploitation: changes in the Orbitofrontal Cortex (OFC) of the brain where executive functioning capacity is located. Persons with marked changes in the OFC are far less risk averse than age-matched persons without any change. Neuropsychologist Natalie Denburg's Iowa Gambling Task[5] demonstrated this point, as did Daniel Marson's groundbreaking Financial Capacity Instrument,[6] the only instrument of its sort actually validated on persons with dementia.

There also is growing concern over the role that Type 2 diabetes plays in affecting the course of one developing MCI and the progression to dementia of the Alzheimer's type.[7] Even other neurodegenerative diseases, such as Parkinson's disease (PD), can result in a form of MCI called Parkinson-Lewy Body MCI (PLB-MCI), which raises the question of the possible need to screen for vulnerability to financial fraud among those with diabetes and PD.[8]

Then there is the astounding epidemiological basis, too: research by Brenda Plassman, et al. revealed that approximately 35 percent of the 25 million people in the U.S. age 71 and over have some form of cognitive impairment – 22 percent with CIND (cognitive impairment with no dementia), and 13 percent with dementia.[9]

Another source of compelling research is that of David Laibson of Harvard. A behavioral economist, Laibson's data show age-related decrements in making sound financial decisions and argues that as retirees leave their employers' 401(k) plans, they may find themselves alone in managing their money. According to a July 2010 AARP study, three out of five older Americans fear running out of money before they die more than death itself.[10] With longevity risk being the new "buzz word," this fact and that of the other researchers' findings argue strongly for a better understanding of this issue among the older population and those who care for them; younger persons and those nearing retirement also need to know about this issue.

As the aging population nearly doubles in another 20 years, so will those afflicted with this risk factor. What is problematic about MCI, particularly the nonamnestic subtype, is that individuals can go about

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[5] See http://discovery.medicine.uiowa.edu/neuroscience/investigators/Denburg,Natalie/index.htm.
[6] See http://medicine.uab.edu/neurology/faculty/Marson.
[7] JA Luchsinger, *Arch Neurol.* 2007;64(4):570-575.
[8] JS Meyer, *J Neurol Sci.* 2007; 257(1-2):97-104).
[9] See http://www.annals.org/content/148/6/427.abstract.
[10] See http://www.aarp.org/work/retirement-planning/info-06-2010/running_out_of_money_worse_than_death.html.

living their lives much like they were before: engaged socially, enjoying family, friends, and leisure pursuits. The one area those with MCI, regardless of subtype, have more problems with than those without the condition is in managing their financial affairs. Often times the affected person doesn't know it, the spouse and others close to the individual don't know it for awhile; and generally, health care providers don't delve into this highly personal area of a patient's life.

ABOUT THE EIFFE PREVENTION PROGRAM

Some unscrupulous financial advisors know how much more risk a person with MCI is likely to take; sadly, so do equally unscrupulous family members. If the amount lost to fraud is significant, seniors simply don't have the time to make it back. This has health consequences when victims have to choose between out-of-pocket health services and food and shelter. To combat this serious and growing problem, clinicians at Baylor College of Medicine's Huffington Center on Aging and Texas Consortium Geriatric Education Center developed an easy-to-use set of "red flag" questions that busy primary care physicians and their office staff could use with their older patients.

Funded by a grant from the IPT and supported by the Texas State Securities Board, the Baylor geriatrics faculty in the Huffington Center on Aging, employed 1) external validity approaches using outside experts in decision-making capacity, neurology, psychiatry, and ethics that led to 2) use of the Nominal Group Technique with four focus groups of six clinicians each who had large numbers of older people in their practices. Following a cluster analysis of modal responses, the result was the Clinician's Pocket Guide, which also gives referral routes if there is a positive screen.

The Clinician's Pocket Guide along with a patient education brochure formed the basis of a pilot test of 10 continuing medical education programs in Texas during 2009. Of the 200 who took the courses, 130 completed evaluations and gave contact information. Later, 67 physicians gave the research team permission to contact them at six months. The results were a utilization rate of 55 percent who found patients deemed highly vulnerable to what the team has called "EIFFE," or elder investment fraud and financial exploitation.

The results of the EIFFE pilot project were presented at the November 2009 annual meeting of the Gerontological Society of America and at the June 2010 annual meeting of the National Area Health Education Center Organization. The resulting pocket guide can also be downloaded on the website of the American Academy of Family Physicians, [11] which has a cooperative agreement with the IPT to use the materials produced by the Baylor project in their annual geriatrics course.

What began in Texas with a grant from the IPT has become a national program, the "Elder Investment Fraud and Financial Exploitation Prevention Program."[12] Each of the 25 participating states and jurisdictions has an agency or department whose function is to regulate stock brokers and financial advisors making sure they don't sell an unsuitable financial product to anyone of any age. These state oversight agencies also play another important role: i.e., their investor educators conduct programs for seniors to increase their investment literacy and how to avoid scams. The professional organization of these regulatory and financial professionals is the North American Securities Administrators Association (NASAA), which supports a variety of senior outreach activities.

The EIFFE Prevention Program materials, the Clinician's Pocket Guide and Patient Brochure, have been redesigned and customized for distribution in each of the participating states and jurisdictions as well as national distribution. The Clinician's Pocket Guide is a reference card for physicians working with elderly patients. It lists common red flags, provides information on how to ask about a patient's financial capacity and outlines types of referrals. The Patient Brochure provides information on how to protect against elder financial fraud and where to go for help. A video entitled "Elder Investment Fraud: A

[11] See http://www.aafp.org/online/en/home/publications/news/news-now/news-in-brief/20100714wklynwsbrfs.html.
[12] See http://www.investorprotection.org/downloads/pdf/learn/press/EIFFE-PP_Press_Release_11-17-10.pdf.

National Epidemic"[13] has also been developed as part of the EIFFE Prevention Program. The short video addresses and explains the widespread problem of elder investment fraud and financial exploitation and explores some of the possible solutions.

The Investor Protection Trust, the Investor Protection Institute, NASAA and the National Adult Protective Services Association (NAPSA) have teamed to work with such national health-related organizations as the American Academy of Family Physicians, American College of Physicians, the American Geriatrics Society, the National Association of Geriatric Education Centers, the National Area Health Education Center Organization and others.

The goal of this new alignment of organizations is to offer continuing education for health professionals to increase their clinical awareness of the issue and to provide them with a proven screening tool and with effective referral routes. The nation's Geriatrics Education Centers and Area Health Education Centers are perfectly situated to work with the investor educators in their states to coordinate this much needed professional development program that has the potential to save many elders from losing their wherewithal to have a good old age.

Here is an outline (at this time) of the four phases of the program:

- **Phase 1 (Months 1-3) —** beginning in January 2011
  - convene Panel of Advisors
  - identify specific investor educators and health professionals in each state
  - hold conference calls with state representatives to ascertain their needs
  - complete the revised IPI/IPT "How to Guide"
- **Phase 2 (Months 4-6)**
  - finalize the CME course materials for medical professionals
  - work with the designated CME offerors to accredit CME courses
  - schedule first wave of CME programs to begin in spring 2011
  - work with the Web design to create an accredited, online CME education program
- **Phase 3 (Months 7-12)**
  - schedule and conduct CME programs
  - revise evaluation protocols to gather data on course takers at six-month follow-up time periods
  - finalize and launch the Web-based CME distance learning program.
- **Phase 4 (Months 13-24)**
  - continue conducting CME programs
  - promote the availability of the online course via use of all available resources of program partners such as the AAFP, NAPSA, NAGEC, NAO, and other professional organizations
  - continue evaluating program participants
  - disseminate program outcomes as widely as possible

In conclusion, Mr. Chairman, a February 16, 2011 article published in the *Journal of the American Medical Association* by Eric Widera et al., calls for clinicians to be aware of the issue of how financial exploitation of their older patients adversely affects their health and the quality of their lives. We concur and believe that public and private initiatives like the one we describe are needed to help prevent our elders from losing their hard-earned money. This is a societal issue that will only worsen with the burgeoning older population unless active measures are taken. Thank you for the opportunity to add to the body of work on this issue.

[13] See http://www.investorprotection.org/learn/?fa=eiffeVideo.