

Middle Class Prosperity Forum
March 24, 2015
Christopher Lombardo Prepared Statement

Senator Warren, Congressman Cummings, members of the Middle Class Prosperity Project forum, and my fellow panelists, thank you for the opportunity to share my family's story with you today. My name is Christopher Lombardo, and I am here on behalf of my parents-in-law Merlin and Elaine Toffel.

I met Merlin and Elaine's daughter, Tammy, in grade school and later married her in 1988. I have known the Toffels for much of my life, and care for them deeply. Merlin and Elaine worked hard and responsibly so that they'd have a strong nest egg for their later years, but that was devastated by one individual who offered them conflicted advice.

The beginning of the Toffels' financial collapse occurred almost 24 months ago. But, there is an important component that set up the perfect storm for the Toffels, and opportunity for an advisor with less than ethical practices: this was Merlin's diagnosis of Alzheimer's disease in 2013.

Merlin and Elaine built up a beautiful portfolio with Vanguard and had approximately $\frac{3}{4}$ of their net worth with them. It was a diverse portfolio and had been in the making for more than 40 years. Merlin chose all of the stocks and funds, and did very well. Elaine has a degree in accounting, Elaine kept great records. She kept all three of their children up to date, sending them spreadsheets of their estate approximately every 5 years. Her records were critical when it became necessary to put things back together.

In early 2013 Elaine grew concerned about their Vanguard investments as Merlin's condition worsened and he was no longer able to manage their accounts. At the time, Merlin was 78 and Elaine was 74. Elaine knew she needed help and sought advice at U.S. Bank, where they'd done their retail banking for years. This was a bank where the tellers knew them by name.

They met with a U.S. Bank broker in the spring of 2013 and then again in October of 2013. At the second meeting, the broker advised them to liquidate all of their Vanguard investments, which totaled roughly \$850,000. He directed them to put over \$650,000 of that into three variable annuities. Two

of the three annuities were IRA's within an annuity. From the research I've done it would be hard to find an investment with higher fees, and the IRA feature would become an even greater problem later on.

In January of 2014 Merlin's health took a turn for the worse. After two weeks in the hospital he was ready to be released but needed skilled nursing care and rehab. There was no way Elaine would be able to care for Merlin on her own anymore. Fortunately we found a skilled nursing home for Merlin and had Elaine come and stay with us.

As tax time drew closer, my sister-in-law took mom out to her house to pick up some things and help mom prepare her taxes. I'll never forget the frantic call from my sister-in-law when she said: "Chris I don't know what's going on, we need to hire an accountant, my numbers are showing they owe \$15,000 dollars in taxes, and this Vanguard statement is showing a zero balance."

As we went through their accounts and found the statements for the annuities, it just started to smell worse and worse. Elaine was confident in my abilities and authorized me to represent her and Merlin's affairs. We contacted the broker at U.S. Bank, who stood behind his advice when I spoke to him, as did the VP at U.S. Bank who handled our case.

The Toffel's savings that the broker tied up in annuities and IRAs caused even more problems when it came time to put their house on the market and find nearby housing for Elaine. We figured Elaine could afford to purchase something even if their house didn't sell right away, but it turned out that the remainder of the Vanguard money, the roughly \$200,000 that wasn't put into the annuities, was placed into IRAs through U.S. Bank. Unfortunately, Elaine had to pull money from her IRA to purchase a home for herself. This was also problematic for Merlin's medical expenses, which ranged from eight thousand to over ten thousand per month.

We had to petition the bank for a hardship withdrawal and after 5 months, many hours of work, stress, and headache, we were able to retrieve the monies from two of the annuities. The annuity in Elaine's name remains locked up unless we want to pay a 7 percent surrender fee, which would amount to over \$9,000.

Totaling what Merlin and Elaine lost from the advice at U.S. Bank is sickening. Totaling what they could have lost if we did not discover the bad

advice is even more sickening. In the end, the broker cost Merlin and Elaine more than \$50,000 of their savings, and even more in legal fees, and other costs. For example, they paid an annual fee of more than \$26,000, and if they wanted to tap into their money, faced a 7 percent charge, or more than \$45,000.

Merlin and Elaine worked hard, saved their money, and prepared for their retirement. Elaine needed help, like so many other Americans, but was unfortunate in who she trusted would provide it.

Despite all she's been through, Elaine's resolve continues to be an inspiration. Each time we've been asked to share their story she always answers with a firm "Yes, if we can prevent this from happening to someone else, let's do it." I hope her resolute "yes" will indeed help others from encountering the same fate. It is Elaine's resolve that has lead me here, and thanks to the good work of the Dept. of Labor and members of Congress like yourself to address these issues, my faith in the system is on the mend.

Finally, I would like to take a moment to honor my father-in-law Merlin Toffel, a great man. Merlin passed away 10 days ago. He was a devout husband, loving father, and adored his grandchildren and great-grandchildren. He served his country in the U.S. Navy and was a true patriot. He was an incredibly interesting, knowledgeable man. I was blessed to have a great father, and blessed again to have a great father-in-law, who I affectionately called dad as well; we will miss him.

Thank you.