Statement of Charles W. Prine

My name is Chuck Prine and I want to thank the Committee for providing this opportunity to explain what happened to me and to my fellow residents at the Covenant at South Hills and to offer some suggestions, based on our experience, which might afford some protection to other seniors considering a move to a CCRC.

Like most of the residents, my wife and I selected this community primarily because of the reputation of its sponsor, B'nai B'rith, which promoted itself as a leading operator of senior-living facilities throughout the United States. It later became apparent that B'nai B'rith's actual experience was primarily in government financed low-income rental facilities and that it had no experience whatsoever in building and operating life- care communities.

Furthermore, B'nai B'rith did not invest a penny of its own money in this venture, but rather set up a fully controlled "non-profit" affiliate, which financed the construction and operation of the multi-purpose building through a bond issue and bank loans. Although they had invested no money, B'nai B'rith's stated plan was to draw out of the financing and operation substantial fees and a share of the "profits". Prior to the start of construction, B'nai B'rith's controlled affiliate, the Covenant, agreed to pay B'nai B'rith Housing, Inc., another affiliate of B'nai B'rith, a development fee of $1,000,000. At the same time, pursuant to a licensing agreement, the Covenant agreed to pay B'nai B'rith Housing a licensing fee equal to 50% of its net income.

Almost from the very start, it became apparent that the community had been misrepresented to us and that Covenant was in trouble. Although a sign at the entrance on opening day advertised that there were only seven apartments still available, the highest occupancy achieved several years later was still 14 units short of capacity and fell off sharply as residents died or moved out and were not replaced. The assisted-living and nursing occupancy rates rarely met expectations. The cost of the building exceeded estimates by several million dollars. Constant repairs were required. Costs of staffing and real estate taxes had been grossly underestimated.

All of the directors of the shell corporation set up by B'nai B'rith to oversee the facility were either B'nai B'rith International directors or employees. However, many of them never set foot in the building and they seemed to hold most of their meetings over the phone with the directors from Chicago, Texas, and Washington, DC. They refused to provide an audience for a meeting with the Residents' Council. They allowed the "escrow" fund of resident deposits to be used to make up for lack of other income to pay various bills. They became delinquent in the payment of real estate taxes and defaulted on their debt service.

Eventually, the bond holders, demanded that B'nai B'rith take some drastic action to solve the problem. B'nai B'rith refused to put any of their funds into the situation. They hid behind their shell corporation and finally agreed to hold a series of auctions. The leading bidder turned out to be an outfit which had lost its license to operate in Pennsylvania because of health-care deficiencies. They also were having licensing problems in other states.

We tried to get the Pennsylvania Insurance Department to intervene. Under a state act passed some 25 years ago, they had the right to step in and appoint a trustee to take over the facility, but the Department refused to take this step. Fortunately, the bidder was unable to obtain adequate financing and the deal fell through. I say fortunately because it later turned out that the bidder ran into major financial trouble which newspaper reports indicate was caused by a sort of Ponzi scheme in which some of the investors in their older projects were being paid high interest rates out of funds obtained from investors in their newest units.

In 2009, the bond holders commenced a mortgage foreclosure action in state court. That action could have resulted in the loss of our homes, our long term care insurance and our deposits. Eventually, we landed in Federal Bankruptcy Court where the bond holders and bank lenders refused to consider any kind of resolution in which the residents would receive a single penny. The Residents' Council and the Unsecured Creditors' Committee did play a role, however, in the selection of a new buyer. Through our efforts, we were able to facilitate an arrangement pursuant to which the new owner agreed to honor our existing residency agreements and our life care contracts, but with the total loss of our deposits.

Based on our experience, I would like to make some recommendations for any legislation which might be considered to protect senior citizens from losing their life savings and their long term care in questionably-financed life-care projects.

1. Every project should require a minimum of 30 per cent of the financing coming from a cash investment of the sponsor-owner organization. The primary purpose should be to

provide guaranteed lifetime care for the residents rather than provide a high return for Wall Street lenders.

2. Senior housing facilities, which are financed in part by the use of interest obtained from investment of refundable deposits from residents, should be required to place these funds in a true escrow account held by a trustee with the proviso that the principal could not be utilized for operating expenses or other purposes.

3. The boards of directors of the life-care facilities should include at least 33 per cent residents. In effect, these residents should be players, not just pawns in the game. In the case of the Covenant, our residents could have offered several money-saving operational suggestions if we had been granted an opportunity to be heard.

4. In view of the impending increase in longer-living senior citizens, the need for more facilities providing all phases of continuing health care is evident. There should be in each state a single responsible governing agency *as* opposed to responsibilities split among various state agencies. In Pennsylvania, licenses must be obtained from the Department of Insurance, the Department of Public Health and the Department of Welfare. None of these agencies has total control and they do not have, either individually or collectively, sufficient staff and budget to supervise and regulate the facilities.

Not in any sense to diminish the loss our residents have suffered, I am happy to report that our current residents are very pleased with the operation under our new identification, Concordia of the South Hills, which is owned by Concordia Lutheran Ministries of Pittsburgh. In just a few months of ownership, through implementation of their policies and principles, in consultation with the Residents' Council and the residents, the fiscal and operational status of the facility has greatly improved. More than twenty units have been leased to new residents during the first few months of Concordia's ownership. During the last two years of B'nai B'rith's control, only one unit was rented to a new resident. If time allows, I would be pleased to explain in more detail how and why I believe Concordia's modus-operandi will be successful and could be emulated by other life-care facilities.

I welcome your questions.