

STATEMENT OF JOAN MACKEY

Good morning. My name is Joan Mackey. I am honored that you invited me to speak today about the importance of educating women about the pitfalls they may encounter in preparing for retirement. I must tell you, I would not be in the situation I am currently in if I only knew when I was going through my divorce what I know now.

My husband, Lavond Mackey, Sr. and I were married for 21 years. We lived in Philadelphia, Pennsylvania. Throughout our marriage my husband worked at the Home of the Merciful Savior for Crippled Children – a rehabilitation center and group home for children with cerebral palsy and other physical disabilities. He worked as the chef for the Home, preparing meals for the children.

Although I also worked, both in direct marketing and in a small painting and contracting business that we operated out of our home, we were primarily dependent on my husband's income. That is because I was also caring for our three children, a daughter and two sons. My daughter Tiffany is here with me today.

By 1990 my marriage had fallen apart. My husband had become so abusive that to protect my children and myself I had to move us out of our house. I obtained a legal separation later that year. I was able to find a lawyer to help me with the separation agreement. In it my husband agreed to stay away from us and to provide support for the children. At that time our oldest child was only 12 years old.

I filed for divorce in 1994. At that time in our lives, we owned very little. I had a car, but my husband did not. We rented our home. I had no savings, insurance or investments. My husband had spoken from time to time about investments and savings accounts, but at the time of the divorce, he had hidden them or spent them, because my attorney couldn't find anything. I knew he had a pension and life insurance through his job, but to be honest, I never thought about it in connection with the divorce – and my lawyer never mentioned it. I was just concerned with getting the child support we needed to pay our rent, food and other bills. The divorce court order was just 2 pages long, and repeated almost exactly what was in the legal separation order – that my husband would stay away from us and pay child support. There was no mention of the insurance or pension.

My ex-husband continued to work for the Home, now called the HMS Home for Cerebral Palsy until 1996, when, after more than 18 years, he had to quit working due to cancer. He died in 1997. In the last months before he passed, he told me several times that he had "taken care" of the children and me. He assured me that I would get money from his insurance and pension at the Home.

After he passed, I went to his employer and asked about the insurance policy and pension benefits my ex-husband had mentioned. The lady at the benefits office at the Home told me that they couldn't pay me anything because I wasn't married to my ex-husband when he died.

Since my ex-husband had repeatedly told me I would get these benefits shortly before he died,

and years after our divorce, this didn't make sense to me. I went to Community Legal Services in Philadelphia and found a wonderful lawyer willing to try to help me. Thanks to her efforts, we learned that the benefits manager at the Home actually wanted to pay me the widows' pension benefit my ex-husband had talked about, but the lawyer for the Home had said "no" – that they could only pay me the pension benefits if I had gotten a divorce court order directing them to make the payments. He said that if they made payments without a court order, the plan would get in trouble with the government.

This didn't seem right. The pension plan provides automatic benefits for widows, my ex-husband hadn't given those benefits to anyone else, and if I had known to ask for the benefits during my divorce proceedings, there would have been no problem in paying them to me. This is why I think that educating women about retirement is so important. Every woman going through divorce needs to know that she should check to see if her husband has earned a pension, and if he has, to make sure that her divorce court order provides for the payment of survivors benefits to her. If my experience is any guide, women can't count on their lawyers to ask about the pension.

I am now 48 years old, and I am very worried about what I will live on when I can't work any more. I know first-hand that pensions can make all the difference. My father, after working a lifetime, first for the Naval Shipyard in Philadelphia, and then for the Postal Service, is getting a government pension. My mother, who also worked all her life, is getting pensions from Wanamaker's, the Philadelphia department store, and from her work at a doctor's office. I can't imagine what their lives would be like without these pensions.

I have worked all my life but, until recently, I have never had a retirement plan through my employer. My present income comes from my work as a real estate broker, and the direct marketing I do for a cleaning company, in which I am part owner. The cleaning company has a 401(k), and I have been trying very hard to put some money into it. I have about \$4,000 in there now. I will also be getting Social Security, but I know that won't begin to be enough. Being able to count on getting the survivors' benefits from my ex-husband's pension plan would make a big difference.

I know I am not alone in being very frightened about my future financial security. I hope that this Committee will be able to get the word out to women throughout the country about the importance of educating themselves about retirement – before it's too late – and, most important, about the need to ask about their rights to survivors benefits when they are going through divorce.

Thank you for inviting me to share my experience. If telling you my story can help even a few other women, our trip here will have been well worthwhile. I would be happy to answer any questions you may have.