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From the Los Angeles Times

Cashing out an elderly parent's IRA -- in just 9 visits to the bank

A son runs into red tape as he seeks to tap funds for his father's care.

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My husband is a very patient man.

So when David decided it was time to take charge of his ailing 92-year-old dad's finances, he was prepared for questions from Bank of America, where Jack has banked for many years.

With financial rip-offs of the elderly commonplace, banks can't be too careful about who gets access to parents' personal identification numbers or safe deposit boxes. In fact, state law can hold banks liable if their negligence greases the skids for an elder scammer.

So David was ready to prove that Jack was no longer able to manage his own affairs and that Jack had years before expressly authorized his son to handle his finances in just this circumstance.

Even my patient husband wasn't prepared for what happens when corporate caution meets takes-your-breath-away disorganization.

Over three months last winter, **David made nine trips to the bank.** Sometimes I accompanied him. He spoke with several "customer solutions representatives." He produced his dad's durable power of attorney and living trust for inspection multiple times. **Those documents were repeatedly faxed to the bank's central legal department** for further examination. Hard copies were then sent by corporate courier to the bank's IRA department -- **and disappeared.**

Bank of America's employees were unfailingly polite and eager to help. But depending on the day and the person, **David was told** that Jack's **legal papers were in order. Or that they weren't. He was told that, notwithstanding Jack's wishes, bank policy bars adult children from managing their parent's individual retirement accounts. Or that it doesn't.**

Meanwhile, Jack's savings were dwindling. By mid-January, David still didn't have full authority to tap his dad's IRAs to pay for the round-the-clock care Jack needed.

David eventually prevailed, in large measure because he was persistent. And in a thoughtful acknowledgment of the time and trouble it took, the

branch manager surprised us by waiving the penalty charges for closing out both IRAs early.

The experience was a cautionary tale for other baby boomers who may soon be in charge of their elderly parents' affairs: Holding a durable power of attorney may be only the first step. You may have to fight to enforce it.

For many years Jack lived happily on his Social Security checks and a tiny pension. In his late 80s, after an operation left him temporarily unable to fend for himself, Kaiser arranged for a home-care worker to move in until he was back on his feet. Nearly four years later, the shy woman in her 30s who arrived on his doorstep was still there, tenderly caring for Jack day in and day out.

He had largely run through his savings to pay her salary. What was left were two small IRAs -- totaling less than the sticker on a low-end Chevy.

In the last six months, as Jack's mental faculties deteriorated, David started writing checks for his dad to sign, tracking his growing list of medications and consulting with his doctors. By mid-October, David headed to our local Bank of America branch; it was time to crack open his dad's IRAs.

Trip 1: A customer representative **faxed** David's copy of Jack's simple trust and the durable power of attorney he'd filled out 12 years earlier **to the legal department for verification.** Sorry, came back the

answer; they **need to see the originals.**

Trip 2: David found them in Jack's mobile home, and the account rep again faxed them to legal. Sorry, she said, the bank's lawyers interpreted the power-of-attorney document to mean that David and his sister had to act jointly. **Bank policy requires account holders to designate only one surrogate,** not two. Doris would have to cede her power to David in a notarized letter.

Trip 3: Good news, said the account rep, Doris' letter passed muster with the lawyers, so David could now manage Jack's checking and savings accounts. But the IRAs were off limits, she declared. Confused, **David asked to speak with the bank lawyers. Not possible, she said.**

Trip 4: Incredulous, I called my colleague **Kathy Kristof, The Times' Personal Finance columnist.** She was equally **dumbfounded that the bank could legally hold on to Jack's IRAs despite the power of attorney he had filled out.** The last page of that document is a commonly used checklist of financial powers. Jack could have deputized his kids to handle only his tax returns or just his retirement accounts or stock transactions. Instead, he checked Line N, "All of the powers listed above."

Kathy helped connect David with the branch manager, who, after looking at that checklist, agreed that "all financial powers" should include Jack's IRAs. We just needed to send the documents to both the

bank's legal department (again) and to the central IRA department in San Francisco, he said. Once they scanned in the documents, Jack's IRA accounts would include a computer flag authorizing David to act in his dad's stead. **Give us five to eight business days, the manager said, and we'll take care of it.**

Trip 5: David left a phone message for the branch manager after several days passed. When he didn't return the call, David went in. Jack's accounts still weren't flagged, so the manager dialed the IRA department where they had been taken by courier and was put on hold. After 15 minutes, David had to leave for work. **The manager promised to call** when he got through to the IRA folks. **David never got a message.**

Trip 6: David was anxious to transfer one of the two IRAs before the year ended to minimize the tax consequences to his dad of having to declare the proceeds of both accounts as income in 2008. **The branch manager was off Dec. 28 when we visited, so the assistant branch manager directed us to another representative.** When she saw that Jack's account was still not tagged, she telephoned the central IRA department. She sat on hold for 15 minutes before speaking with someone there. **Jack's documents were nowhere to be found; would we please send them again?**

We've already done that, David said quietly, and we need this taken care of today. Our representative

called the branch manager on his cellphone; fortunately, he remembered David and verbally authorized the account transfer. The rep found the forms to open the IRA but needed time to fill them out. Would we please come back in a couple of hours? she asked, promising to have the paperwork finished.

Trip 7 (later that day): Success -- one IRA was transferred to Jack's checking account.

Trip 8: In early January, David decided to open the second IRA. He was directed to the first representative he met back in October. Jack's account file still didn't note David's power of attorney, she said, so she couldn't make the transfer. When she dialed the IRA department to find out what the holdup was, she too sat on hold, for 10 minutes, before David had to head to work.

Trip 9: Finally. **Jack's account file still didn't note David as his designee, but the branch manager again verbally authorized the transfer.**

This shouldn't have been so hard.

Certainly, we want banks to protect our loved ones from scammers and rip-off artists. Too often, said Anna Burns, a lawyer with Bet Tzedek Legal Services of Los Angeles, "we see people who get the power of attorney and then go clean out their parents' or friend's accounts." Or lawyers who loot their client's

estate.

Of course Bank of America was absolutely right to inspect Jack's documents and verify that David was his son.

But it seemed to me that what happened to him was less about caution than confusion bordering on ineptitude.

Colleen Haggerty, a spokeswoman for BofA in Los Angeles, said, "The circumstances certainly don't reflect the bank's priorities around convenience and access for our customers. The bank is really committed to meeting our customers' needs with respect and professionalism."

Linda Sherry has seen it before. The director of national priorities for **Washington-based Consumer Action**, Sherry said she was amazed that anything ever got done in some large corporations. "It's a mystery sometimes," she said.

Her advice for adult children dealing with their parents' financial affairs:

- * Be persistent. Keep a log of each employee you talk to, ask their full name, note when you called and what was said. Keep calling until the problem is straightened out. Ask to speak with the bank manager if you run into trouble.

- * Hire a lawyer. That would have been our next step.

Many lawyers will agree to a flat fee to look over your documents or draft a letter to the bank.

* **If necessary, complain.** The Comptroller of the Currency, part of the U.S. Treasury Department, charters and regulates all national banks. Information about filing a complaint is on its website, www.occ.treas.gov/customer.htm. You can also try the Federal Trade Commission, www.ftc.gov, and Consumer Action, www.consumer-action.org.

Postscript: Ten days after Bank of America unlocked his second IRA, Jack died quietly with his family and caretaker at his side in the Carson home where he'd said many times he wanted to live out his days.