The Australian Law Reform Commission – National Inquiry into abuse of the elderly by family members.

My name is	and I am writing on	behalf of my Mum, Mrs
	formally of	Victoria now
of	Victoria.	

## Issue -

- (1) The misuse a Power of Attorney by a family member, in this case my sister Ms The power authorised us jointly and each severally to act on Mums behalf. The misused her authority through the "severally" clause and acted alone to the exclusion of myself. There needs to be tighter controls to ensure this clause is being used appropriately;
- (2) The ease of which a Power of Attorney document can be overridden with a new one signed off a person who no longer has the mental capacity to sign such a document a fact supported by Mum's doctor at the time. Proof of the ability to sign seems to vary from state to state;
- (3) The ease of which a safety deposit box can be removed from a bank and the account closed using the severally part of the Power of Attorney there are no checks undertaken by the bank to see if the other party involved in the Power of Attorney is available and agrees for this to happen;
- (4) Bank withdrawal forms were being signed by my Mum who was deemed not mentally able and was using part of these funds to cover her own legal costs. did not provide any accounting records until forced to by my solicitor and the records produced were far from adequate;
- (5) The removal of items from the house by VCAT. The State Trustee warned at the time the house was being prepared for sale that any items removed from the house still remained part of the estate. However there is the issue of items removed prior to the Trustee taking over;
- (6) What recourse is there for the people disadvantaged by what has happened. Mum thought that by having a legal Power of Attorney in place her wishes would be followed. Not so. Mum feels let down by the law; and
- (7) During the time my sister had Power of Attorney, I had no feedback from the nursing home as to Mum's state of health. Legally they said they could not divulge this information to me.

I welcome such an enquiry as this type of behaviour appears to be on the increase. I was fortunate enough to have the means to be able to take this issue to the Victorian Civil and Administrative Tribunal. Some people may not be in this position to take such action.

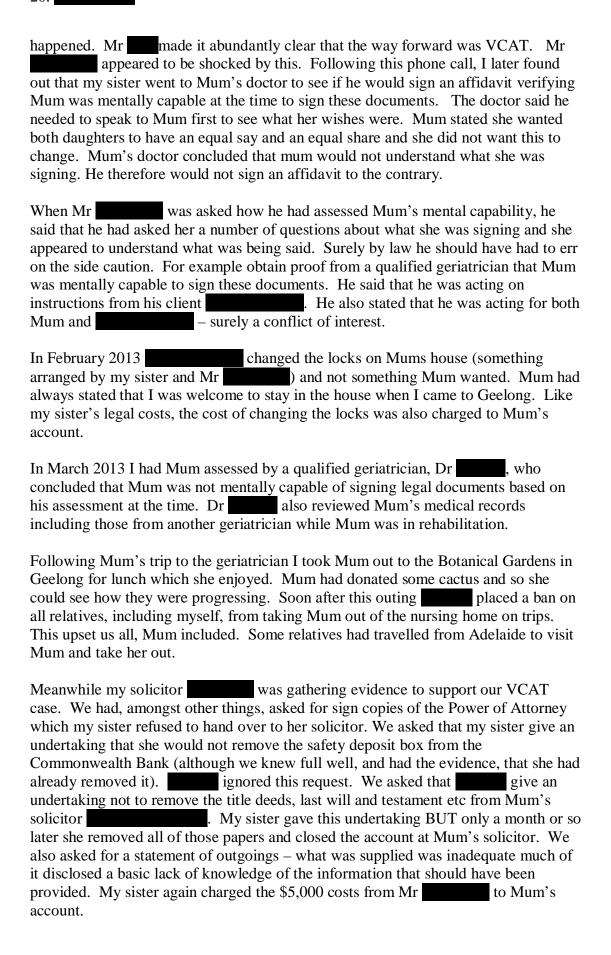
## **Summary of events.**

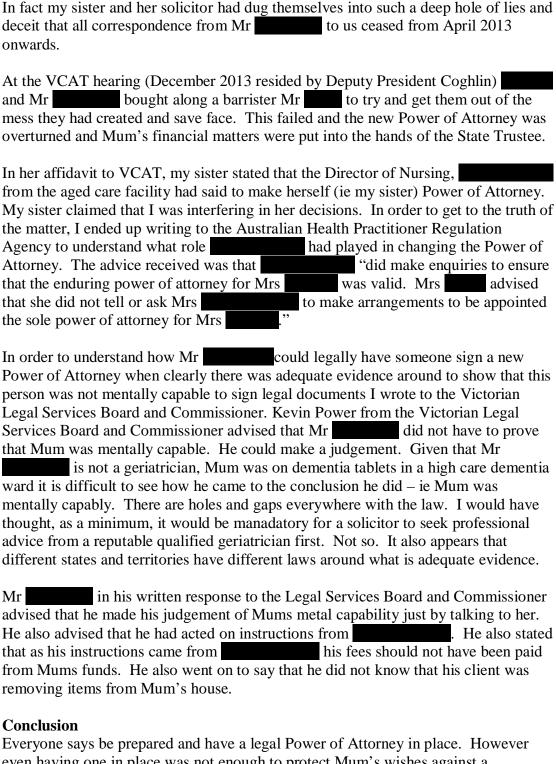
In summarising the events I might add that at no stage did my sister communicate her actions to me. I found out after the event.

In 1994 following the dea	ath of our Dad, my Mum dr	rew up a Power of Attorney wit	th
her solicitor (now at		) giving her	
two daughters, my sister	and myself	joint and	

severally Power of Attorney. Mum has always wanted equal say and equal share between the two of us.

In June 2012 Mum had a fall at home and was admitted to the Hospital where she stayed a number of weeks. After that Mum was moved to
rehabilitation. It was during her time in early August 2012 that ACAT did an assessment of Mum's mental capability and whether she could return
home or not. My sister signed this ACAT assessment of behalf of Mum siting
"cognitive impairment." ACAT wanted to do a second assessment but at a later date.
My sister insisted that ACAT did a second assessment soon after the first which was contrary to the Doctor's advice. Again my sister signed the assessment form for the
same reason as before. I was not present during either of these assessments. ACAT
was advised by staff from that there was a second sibling to be taken
into consideration. ACAT recommended transition care to see how Mum went and to
also give myself and other relations time to look at possible aged care facilities. I
signed the transition form BUT also added as contacts my sister and my aunty.
Meanwhile on 31 July 2012 my sister used the severally part of the
Power of Attorney to remove Mums safety deposit box at the Commonwealth Bank in
and close the account. I was amazed this could happen. I
received no advice from the bank that this was happening. Mum had set up this safety deposit box around the time the Power of Attorney was drawn up.
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From the night of the fall in June 2012, my sister was accessing Mum's
house almost daily, removing items with absolutely no discussion with me. I might
add, Mum still at this stage had not been assessed as requiring care.
In September 2012, I received a phone call from the transition care facility to say that
Mum was being moved, that day, into an aged care facility my sister had selected.
The Australian Electoral Commission advised me that Mum "was removed from the
electoral roll in 2012 with a doctors certificate stating she was no-longer capable of
voting". One can only presume this was instigated by
In early November 2012 when I was speaking to Mum by phone she said she had a
visit that day from, she thought, her solicitor (from ) wanting to
discuss financial matters. Mum was confused about what was going on.
A few days later I received a letter from Mr , my sister's solicitor, advising that my sister now had sole Power of Attorney – financial, medical
guardianship etc. Considering Mum was in a high care dementia ward, taking
dementia medication and my sister had demonstrated that she knew Mum was most
likely mentally incapable of signing such forms (given what she had stated on the
ACAT forms earlier) I was shocked to understand how this could have happened. How could the law let this happen – I felt let down. Mum had been let down. On
what basis did Mr make this judgement?
I contacted my solicitor Mr (asking for copies of the new Power of Attorney asking for copies of the new Power of Attorney)
and the revocation of the old power. Mr rang Mr to discuss what had





Everyone says be prepared and have a legal Power of Attorney in place. However even having one in place was not enough to protect Mum's wishes against a perpetrating sibling. The law is simply inadequate. What is even more frightening is that perpetration by family members appears to be on the increase. Family members appear unwilling to wait for their inheritance.

Fortunately I had the funds to take action against my sister and her solicitor. Many others would not be in this position. My sister has always wanted to be in charge of all situations and she did not like the fact that Mum had wanted both siblings to be involved.

Hospital to not only manipulate people, including her solicitor, but she also used her nursing friend as a witness to the new Power of Attorney.

Given what has happened there are a number of other loose ends that remain unresolved. I am not sure how these can be resolved. I am more than happy to supply names and addresses of the people involved should they want to respond to any further follow up you may want to take – just let me know. I am also happy to supply any letters, documentation etc if required.

Can I say please strengthen the laws so that this type of behaviour does not continue.

Yours Sincerely

6 August 2016