



those funds,” enabling him to embezzle the money and make detection of the offense more difficult. *Id.* The Eighth Circuit summed up its position, stating that “a relative with [a] degree of control over finances *may* occupy a position of private trust.” *Id.*

Therefore, the objection will be heard at sentencing. The government bears the burden of proof by a preponderance of the evidence.

***U.S.S.G. 3A1.1(b) - Vulnerable Victim***

The government argues in favor of the application of this enhancement. The objection will be heard at sentencing, and the government bears the burden of proof by a preponderance of the evidence.

IT IS ORDERED:

1. The government’s objections to the Presentence Investigation Report (Filing No. 31) will be heard at sentencing;
2. Otherwise the Court’s tentative findings are that the Presentence Investigation Report is correct in all respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 10<sup>th</sup> day of December, 2007.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge