

In Reply Refer To:
022D-76221

January 16, 2019

Mr. Scott C. Greenblatt
Veterans Guardian VA Claim Consulting
109 Arnette Street
Aberdeen, NC 28315

Dear Mr. Greenblatt:

The Department of Veterans Affairs (VA) has received information that Veterans Guardian VA Claim Consulting may be engaged in illegal activities, which include the unauthorized representation of claimants for VA benefits and charging them for your services. The purpose of this letter is to provide you notice of the law and the opportunity to respond before we take further action.

On the website for your business, www.vetsguardian.com, it states

Our mission is simple: to assist you in receiving ALL of the VA benefits that you have EARNED through your service to the nation. The VA disability claim process can be difficult and confusing to navigate. We provide a wealth of experience with and an understanding of the VA disability claim process that allows us to develop an individual claim strategy to support your specific circumstances. We will guide you through the process and provide all of the documents that you will need to submit your claim

Further, under the CLAIMS tab, the website discusses the assistance your business can provide with the filings of several different claims, and concludes by stating

The Veterans Guardian VA Claims Consulting team has experience filing EVERY SINGLE disability claim listed in the eCFR, Title 38, Schedule 4, Schedule for Rating Disabilities. Please contact us if you need help filing or re-filing your VA disability claim. We are veterans helping veterans get the VA disability compensation YOU! Veterans Guardian VA Claim Consulting takes all the risk up front leveraging our capability as we NEVER charge any Medical-Legal Consulting Fees unless you receive a benefit from our services.

Chapter 59 of title 38, United States Code, and sections 14.626-14.637 of title 38, Code of Federal Regulations, govern the representation of claimants seeking VA benefits. The purpose in regulating who may provide claims assistance to

2.

Mr. Scott C. Greenblatts

Veterans is to ensure that they “have responsible, qualified representation in the preparation, presentation, and prosecution of claims for veterans’ benefits.” 38 C.F.R. § 14.626.

Under 38 U.S.C. § 5902, VA is authorized to recognize organizations to assist claimants with their VA benefit claims. VA regulations require organizations to apply for VA recognition, demonstrate that the organization satisfies the legal requirements for recognition, and then certify to VA that each of the organization’s representatives who will assist Veterans in the preparation, presentation, and prosecution of claims before VA meets the legal requirements for accreditation. 38 C.F.R. § 14.628(d)(1)(i). Please note that one of the requirements for recognition is that the primary purpose of the organization must be to serve veterans. In determining whether this primary purpose exists, the Secretary takes into account and weighs all of the organization’s activities including other possible business interests. Our records indicate that Veterans Guardian VA Claim Consulting does not hold VA recognition. Accordingly, as an organization, Veterans Guardian VA Claim Consulting is prohibited by law from assisting Veterans in the preparation, presentation, or prosecution of their VA benefits claims.

VA is further authorized to accredit individuals as claim agents or attorneys to assist in the preparation, presentation, and prosecution of a claim for VA benefits. 38 U.S.C. § 5904; 38 C.F.R. § 14.629. Under these laws, an individual must be accredited by VA as an agent, attorney, or representative of a VA-recognized veterans service organization to assist in the preparation, presentation, and prosecution of a claim for VA benefits. 38 U.S.C. §§ 5901-5902, 5904; 38 C.F.R. § 14.629. In other words, to provide assistance with a claim for VA benefits, even without charge, a person must be accredited by VA as an agent, attorney, or service organization representative. VA regulations provide a *one-time* only exception to this general rule, which authorizes a person to provide assistance on a particular claim, but such assistance must be without cost to the claimant and is otherwise subject to the laws governing representation. 38 C.F.R. § 14.630. Because neither you nor your business are currently accredited by VA, you are prohibited by law from assisting veterans in the preparation, presentation, and prosecution of claims before VA.

It is unclear whether Veterans Guardian VA Claim Consulting is associated with any VA-accredited claims agents or attorneys. That said, even if Veterans Guardian VA Claim Consulting does have claims agents or attorneys associated with the organization, such associations would not authorize Veterans Guardian VA Claim Consulting to advertise that “the organization” provides VA claims assistance services. The law requires VA-accredited claim agents and attorneys to represent claimants in their individual capacity. See 38 U.S.C. § 5904; 38 C.F.R. § 14.629. Thus, if an organization is going to rely on the accreditation of an individual claims agent or attorney, the organization must be transparent in its advertising of who will be providing such services. To the extent that Veterans Guardian VA Claim Consulting has any VA-accredited claims agents or attorneys associated with the

3.

Mr. Scott C. Greenblatts

organization, we recommend that you revise Veterans Guardian VA Claim Consulting's website to clearly state the names of individual(s) that will be providing VA claims assistance, and make sure that Veterans Guardian VA Claim Consulting is not misleading the public into thinking that the organization as a whole provides VA claims assistance services.

Additionally, the standards of conduct for individuals accredited to represent claimants for VA benefits are based upon the Model Rules of Professional Conduct. See 38 U.S.C. § 5904(a)(2). Rule 7.1 of the Model Rules of Professional Conduct requires that "[a] lawyer shall not make a false or misleading communication about the lawyer or lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading." Comment [2] to the Rule makes clear that "[t]ruthful statements that are misleading are also prohibited." Your business's website possibly violates these requirements. See, e.g., *In re Huelskamp*, 740 N.E.2d 846, 848 (Ind. 2000). Of particular note is a passage where your business advertises assistance with a "Lifestyle Impact Claim," stating:

The Lifestyle Impact Claim is a high-value secondary condition that many veterans are eligible for due to other service connected disabilities of varying degrees of ratings or intensity. It is one that is rarely acknowledged by the VA regional office, but it provides additional compensation to veterans for the impact their current service connected disability is having on their overall lifestyle, whether that impact is social, recreational, or vocational. Our clients typically receive 30%, 50%, or 70% for just this one claim alone. To qualify for this claim, you must have a primary service connected disability rated 0% or higher, and that primary disability must be significantly affecting your life in a negative way. We can help you establish a claim for both the disability and its impact on your lifestyle.

We are not aware of any such claim, and, therefore, even if your business was accredited, its advertising may be considered a violation of the VA standards of conduct for accredited individuals, which requires that you be truthful in your dealings with claimants and VA, and prohibits, among other things, engaging in conduct involving fraud, deceit, misrepresentation or dishonesty. See 38 C.F.R. § 14.632(a)(2) (requiring accredited individuals to be truthful in their dealings with claimants and VA), (c)(3) (prohibiting accredited individuals from engaging in conduct involving fraud, deceit, misrepresentation or dishonesty), (c)(4) (prohibiting accredited individuals from violating any of the provisions of title 38, United States Code, and title 38, Code of Federal Regulations), (c)(11) (prohibiting accredited individuals from engaging in any other unlawful or unethical conduct).

Within 30 days of the date of this letter, please inform us of the measures you are taking to address our concerns. Your response should be mailed to the following

4.

Mr. Scott C. Greenblatts

address:

Attn: Margaret Talbot
Office of the General Counsel (022D)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

In the alternative, you may email your response to ogcaccréditationmailbox@va.gov.

If we do not hear from you or if, based on your response, we determine that you have not taken appropriate measures to cease any and all illegal activities, we will refer the matter to the appropriate law-enforcement authorities.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'D. Scadden', written in a cursive style.

Derek Scadden
Staff Attorney