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COMMITTEE ON VETERANS' AFFAIRS

ONE HUNDRED SEVENTEENTH CONGRESS

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WASHINGTON, DC 20515

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August 22, 2022

TO: Chairwoman Elaine Luria
 Chairman Chris Pappas
 Ranking Member Troy Nehls
 Ranking Member Tracey Mann

FROM: Majority and Minority Staff of the Subcommittees on Disability Assistance and Memorial Affairs and Oversight and Investigations

RE: **Supplemental Statement for the Record, April 27, 2022, Joint Oversight Hearing, "At What Cost? – Ensuring Quality Representation in the Veteran Benefit Claims Process."**

BACKGROUND

On Wednesday, April 27, 2022, at 2:00 p.m., ET, the House Committee on Veterans' Affairs Subcommittees on Disability Assistance and Memorial Affairs and Oversight and Investigations met in open session – both online via Zoom and in person in Room 210 of the House Visitors Center – to conduct a joint oversight hearing entitled "At What Cost? – Ensuring Quality Representation in the Veteran Benefit Claims Process."

Seven witnesses testified at the hearing, including Lieutenant Colonel William "Bill" Taylor, USA, Retired, co-founder and chief operating officer of Veterans Guardian VA Claim Consulting, LLC. LTC(R) Taylor appeared voluntarily as an invited witness at the hearing.

As explained in more detail below, LTC(R) Taylor provided inaccurate testimony on one point – testifying that "Veterans Guardian has not received a cease-and-desist letter from the Department of Veterans Affairs (VA)." After multiple rounds of engagement with Subcommittee Chairs and Ranking Members and both Majority and Minority Committee Staff (herein referred to as Committee Staff unless specified otherwise) following the hearing, legal counsel for Veterans Guardian emailed Committee Staff a written supplemental statement for the record on July 8, 2022, clarifying that LTC(R) Taylor no longer takes "issue with the Subcommittees' characterization of the January 16 letter [sent by the VA Office of General Counsel (OGC) to Veterans Guardians] as a 'cease-and-desist' letter." The supplemental statement and this staff memo will be included in the hearing record.

DISCUSSION

At the April 27, 2022, hearing, Ranking Member Mann asked LTC(R) Taylor the following question: “Has Veterans Guardian ever received a cease-and-desist letter from VA?”¹ In response, LTC(R) Taylor testified that “Veterans Guardian has not received a cease-and-desist letter from the VA.”² In the Committee’s view, this was not an accurate answer. A January 16, 2019, letter sent to Veterans Guardian’s CEO, LTC(R) Scott Greenblatt, by a staff attorney in the VA OGC constitutes a cease-and-desist letter because it (i) instructed LTC(R) Greenblatt, within 30 days, to inform the Department of measures Veterans Guardian was taking to address VA’s concerns and (ii) informed Mr. Greenblatt that if appropriate measures to cease any and all illegal activities were not taken, VA OGC would “refer the matter to the appropriate law-enforcement authorities.”³ Committee Staff was aware of, but not in possession of a copy of, the January 16, 2019, cease-and-desist letter at the time of the April 27, 2022, hearing.

Following the hearing, Committee Staff engaged in further investigation of LTC(R) Taylor’s claim and pressed him, and, later, his attorney, regarding the accuracy of that claim.

I. APRIL 29, 2022, REQUEST FOR INFORMATION

On April 29, 2022, Minority Committee Staff requested copies of all cease-and-desist letters VA OGC had sent to unaccredited claims representatives since January 1, 2017. In response, Minority Committee Staff received 51 copies of such cease-and-desist letters on May 6, 2022. The names and other identifying information of the individuals and companies that were sent cease-and-desist letters were redacted.

II. MAY 9, 2022, EMAIL EXCHANGE

Minority Committee Staff sent Mr. Brian Johnson, Veterans Guardian’s Vice President of Government and Public Affairs an email on May 9, 2022, seeking to confirm LTC(R) Taylor’s testimony that Veteran’s Guardian “has not received a cease-and-desist letter from the VA.” That same day, Mr. Johnson responded that LTC(R) Taylor’s testimony was correct.

III. MAY 20, 2022, CHAIRMAN’S LETTER

Minority Committee Staff shared the copies of the 51 redacted cease-and-desist letters produced by the VA OGC with Majority Committee Staff on May 17, 2022. On May 20, 2022, Chairman Takano sent a letter to Secretary of Veterans Affairs Denis McDonough requesting complete and unredacted copies of all cease-and-desist letters VA OGC had sent to unaccredited

¹ House Committee on Veterans’ Affairs, *Hearing on At What Cost? Ensuring Quality Representation in the Veteran Benefit Claims Process*, 117th Cong. (April 27, 2022).

² *Id.*

³ Letter from Derek Scadden, Staff Attorney, Department of Veterans Affairs Office of General Counsel, to Mr. Scott C. Greenblatt, Veterans Guardian VA Claim Consulting (Jan. 19, 2019).

claims representatives since January 1, 2017.⁴ On June 7, 2022, Committee Staff received unredacted copies of 58 such letters, including the January 16, 2019, letter addressed to LTC(R) Greenblatt.

IV. JUNE 9, 2022, MEETING

Committee Staff met with LTC(R) Taylor, LTC(R) Greenblatt, Mr. Johnson, and other representatives of Veterans Guardian on June 9, 2022, to discuss the issue further. When again asked about LTC(R) Taylor’s testimony, company officials first stated they did not recall receiving a cease-and-desist letter from VA OGC. After Committee Staff explicitly referenced the January 16, 2019, letter addressed to LTC(R) Greenblatt, company officials acknowledged its existence but said they did not believe it constituted a cease-and-desist letter. Mr. Johnson added, however, that they were willing to take necessary steps to clarify LTC(R) Taylor’s testimony from the April 27, 2022, hearing.

V. JUNE 10, 2022, LETTER

The next day, Raphael Prober, partner with Akin Gump Strauss Hauer & Feld LLP and counsel for Veterans Guardian, sent a letter addressed to Chairs Luria and Pappas and Ranking Members Nehls and Mann. The letter stated, “Mr. Taylor did not and does not believe this January 16 Letter to be a ‘cease and desist letter.’”⁵

VI. JUNE 27, 2022, LETTER

The Chairs and Ranking Members of the Subcommittees responded to Mr. Prober in a June 27, 2022, letter, stating the Committee’s view that LTC(R) Taylor provided inaccurate testimony and inviting the witness to correct the record.⁶ The Chairs and Ranking Members noted that VA OGC apparently categorized its January 16, 2019, letter to Veterans Guardian as a cease-and-desist letter, because they provided it, along with 57 other substantially similar letters, to the Committee in response to Chairman Takano’s request for “all cease-and-desist letters” since January 1, 2017.⁷

⁴ Letter from Mark Takano, Chairman, House Committee on Veterans Affairs, to The Honorable Denis McDonough, Secretary, U.S. Department of Veterans Affairs (May 20, 2022).

⁵ Letter from Raphael A. Prober, Counsel for Veterans Guardian VA Claim Consulting, to The Honorable Elaine Luria, Chairwoman, Committee on Veterans Affairs Subcommittee on Disability Assistance and Memorial Affairs, The Honorable Chris Pappas, Chairman, Committee on Veterans’ Affairs Subcommittee on Oversight and Investigations, The Honorable Troy Nehls, Ranking Member, Committee on Veterans’ Affairs Subcommittee on Disability Assistance and Memorial Affairs, and The Honorable Tracey Mann, Committee on Veterans’ Affairs Subcommittee on Oversight and Investigations (June 10, 2022).

⁶ Letter from Elaine Luria, Chair, Subcommittee on Disability Assistance and Memorial Affairs, Chris Pappas, Chair, Subcommittee on Oversight and Investigations, Troy E. Nehls, Ranking Member, Subcommittee on Disability Assistance and Memorial Affairs, and Tracey Mann, Ranking Member, Subcommittee on Oversight and Investigations, to Raphael A. Prober, Partner, Akin Gump Strauss Hauer & Feld LLP (June 27, 2022).

⁷ See, e.g., Letter from Christopher O. Adeloye, Staff Attorney, Department of Veterans Affairs Office of General Counsel, to Mr. Brian T. Reese, VA Claims Insider, LLC (April 15, 2019).

The Chairs and Ranking Members of the Subcommittees further noted that another witness at the April 27, 2022, hearing appeared to understand Ranking Member Mann’s question and gave an unambiguous, affirmative answer when asked whether the company he represented, Trajector Inc., had ever received a cease-and-desist letter from VA.⁸

The letter from the Chairs and Ranking Members cited federal law, which makes it a crime, punishable by fines and imprisonment of up to 5 years, to knowingly and willfully make a materially false, fictitious, or fraudulent statement or representation to Congress.⁹ The letter asked Mr. Prober to respond in writing with an acknowledgement that Veterans Guardian, had, in fact, received a cease-and-desist letter from VA.¹⁰

VII. JULY 8, 2022, VETERANS GUARDIAN RESPONSE

Mr. Prober responded to the letter from the Chairs and Ranking Members on July 8, 2022. In this letter, Mr. Prober stated that, with regard to LTC(R) Taylor’s testimony at the April 27, 2022, hearing, “Mr. Taylor believed then and continues to believe now that he provided truthful testimony.”¹¹

“However,” the letter continued, “Mr. Taylor certainly appreciates that this is a subjective view and that reasonable minds can – and in this case do – differ on this point. Having considered the Subcommittees’ characterization of the letter as a ‘cease and desist’ letter, Mr. Taylor understands the basis for this view and would not take issue with this characterization, though this is not how he personally views the correspondence.”¹²

Attached to Mr. Prober’s July 8, 2022, letter was a written supplemental statement by LTC(R) Taylor. That statement will be included in the official record of the April 27, 2022, hearing, along with this memorandum.¹³

⁸ House Committee on Veterans’ Affairs, *Hearing on At What Cost? Ensuring Quality Representation in the Veteran Benefit Claims Process*, 117th Cong. (April 27, 2022).

⁹ 18 U.S.C. § 1001.

¹⁰ Letter from Elaine Luria, Chair, Subcommittee on Disability Assistance and Memorial Affairs, Chris Pappas, Chair, Subcommittee on Oversight and Investigations, Troy E. Nehls, Ranking Member, Subcommittee on Disability Assistance and Memorial Affairs, and Tracey Mann, Ranking Member, Subcommittee on Oversight and Investigations, to Raphael A. Prober, Partner, Akin Gump Strauss Hauer & Feld LLP (June 27, 2022).

¹¹ Letter from Raphael A. Prober, Counsel for Veterans Guardian VA Claim Consulting, to The Honorable Elaine Luria, Chairwoman, Committee on Veterans Affairs Subcommittee on Disability Assistance and Memorial Affairs, The Honorable Chris Pappas, Chairman, Committee on Veterans’ Affairs Subcommittee on Oversight and Investigations, The Honorable Troy Nehls, Ranking Member, Committee on Veterans’ Affairs Subcommittee on Disability Assistance and Memorial Affairs, and The Honorable Tracey Mann, Committee on Veterans’ Affairs Subcommittee on Oversight and Investigations (July 8, 2022).

¹² *Id.*

¹³ Written Supplemental Statement of William C. Taylor, LTC (RET) US Army, Co-Founder and Chief Operating Officer, Veterans Guardian VA Claim Consulting, LLC, Provided for Inclusion in the Official Record of the Committee on Veterans’ Affairs’ Subcommittees on Disability Assistance and Memorial Affairs and Oversight and Investigation April 27, 2022 Hearing (July 8, 2022).