



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

August 2, 2013

U.S. OFFICE OF
SPECIAL COUNSEL
WASHINGTON, D.C.
2013 OCT 29 AM 9:40

The Honorable Carolyn N. Lerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, DC 20036

RE: OSC File No. DI-12-4026

Dear Ms. Lerner:

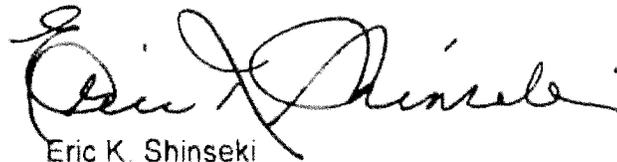
I am responding to your letter regarding Office of Special Counsel File No. DI-12-4026. In your letter, you asked me to investigate allegations by a Department of Veterans Affairs (VA) employee, Mr. Robert Krannig, that the Western Area Fiduciary Hub (the Hub) is failing to properly monitor and administer the VA Fiduciary Program. Mr. Krannig alleged that VA benefits of incompetent Veterans were misused by the fiduciaries entrusted to oversee those funds and cited several examples of suspicious transactions approved by the Hub.

I asked the Under Secretary for Benefits to review this matter and take any actions deemed necessary under 5 United States Code § 1213(d)(5). The Veterans Benefits Administration (VBA) reviewed the transactions cited and all allegations associated with them. VBA found no violation of law, rule, or regulation, however it did identify a need for improved policies, procedures, forms, and field examiner training and training products that advise fiduciaries regarding their obligations and the rights of beneficiaries. There was no evidence of gross mismanagement, waste of funds, or abuse of authority. Enclosed is a detailed review of and response to the examples cited by Mr. Krannig.

VA is committed to serving and protecting our most vulnerable population, incompetent Veterans and beneficiaries. Our fiduciary program ensures Veterans and their Survivors receive the benefits and services they have earned with the oversight that is required. VA is committed to taking all steps necessary to ensure we fulfill our obligation to protect the beneficiaries in this program.

I have reviewed the report and concur with the findings, conclusions, and recommendations. Thank you for the opportunity to respond to this issue.

Sincerely,



Eric K. Shinseki

Enclosure

THE VETERANS BENEFITS ADMINISTRATION

Report to the Office of Special Counsel

OSC File Number DI-12-4026

Western Area Fiduciary Hub

Salt Lake City, UT



Report Date: May 8, 2013

Any information in this report that is the subject of the Privacy Act of 1974 and/or the Health Insurance Portability and Accountability Act of 1996 may only be disclosed as authorized by those statutes. Any unauthorized disclosure of confidential information is subject to the criminal penalty provisions of those statutes.

EXECUTIVE SUMMARY

Summary of Allegations

The U.S. Office of Special Counsel (OSC) referred for investigation a whistleblower disclosure alleging that employees of the Department of Veterans Affairs (VA) Western Area Fiduciary Hub (WAFH) in Salt Lake City, Utah, engaged in conduct that may constitute a violation of law, rule, or regulation, or gross mismanagement, gross waste of funds, or an abuse of authority. OSC received these allegations from Mr. Robert Krannig, a fiduciary field examiner for the WAFH, who consented to the release of his name. Mr. Krannig alleged that the WAFH failed to properly monitor and administer the VA Fiduciary Program, which resulted in the misuse of VA benefits by fiduciaries appointed to oversee those benefits.

According to OSC's March 8, 2013, letter to the Secretary of Veterans Affairs (OSC letter), Mr. Krannig alleged that the WAFH inappropriately:

- Approved a distribution of benefit income in the amount of \$25,000 for the purchase of a vehicle as a gift for a Veteran's non-dependent niece; the vehicle was never used to benefit the Veteran (b) (6)
- Approved payments for repairs and insurance for the vehicle purchased for the niece described in Allegation 1 (b) (6)
- Approved distribution of benefit income from a retroactive lump-sum payment for a series of cash gifts to non-dependent family members and a church in excess of \$100,000 (b) (6)
- Failed to follow agency policy and procedure mandated by the fiduciary provisions of the Veterans Benefits Administration (VBA) Adjudication Procedures Manual, M21-1MR, Part XI, in response to allegations of misuse of funds and fiduciary wrongdoing filed by Mr. Krannig (b) (6) and (b) (6)

Conduct of Investigation

The following team comprised of VA employees conducted this investigation: Ms. Courtney Morehead, Fiduciary Hub Manager, Lincoln Fiduciary Hub; Ms. Marcia L. Hempy, Fiduciary Hub Manager, Columbia Fiduciary Hub; Mr. Larry Glenn, Coach, Columbia Fiduciary Hub; and Mr. Jerry White, Field Examiner, Lincoln Fiduciary Hub. These employees reviewed the March 8, 2013, letter regarding OSC File No. DI-12-4026, as well as the Virtual VA (VVA) record for both of the cases identified by Mr. Krannig. (Note: VVA is VBA's electronic document storage system for certain records. The Fiduciary Program operates in a

near-paperless environment, in which the fiduciary hubs scan all records pertaining to fiduciary matters into VVA.)

Ms. Morehead conducted a telephone interview with Mr. Krannig on April 23, 2013, to obtain any other information that might be pertinent to the investigation. A summary of the interview is included with this report. See Attachment 1

On May 29, 2013, the team conducted a telephone interview with Mr. Richard Colby, Fiduciary Hub Manager, WAFH.

On May 30 through 31, 2013, the team conducted face-to-face interviews of (b) (6) VA fiduciary, Colorado Bank and Trust (Fiduciary CB&T), through the bank's Vice President and Trust Officer, Ms. Karen Kelly; (b) (6) VA fiduciary (Fiduciary PV); and Fiduciary PV's spouse and daughter.

On June 3, 2013, the team conducted telephone interviews of Mr. Greg Burrell of MetLife Financial Services, and Mr. Thomas Kennedy, Office of the VA Denver Regional Counsel.

On June 28, 2013, the team conducted a telephone interview with Mr. William Van Berckelaer, Coach, WAFH.

An interview schedule is included with this report. See Attachment 2.

Background

The allegations section of the OSC letter states that "VA Form 21P-4703" asserts that a fiduciary "cannot borrow, loan, or gift funds belonging to the beneficiary." OSC letter at 2. See Attachment 1a. This form was not in use at the time of the cases addressed in Mr. Krannig's allegations and this report. VA Form 27-4703, *Fiduciary Agreement* (published Nov. 1988), as signed by Fiduciary CB&T, and VA Form 21-4703, *Fiduciary Agreement* (published Jan. 1998), as signed by Fiduciary PV, state that the fiduciary agrees "to use all money paid by the Department of Veterans Affairs (VA) for the benefit of the beneficiary(ies)" and do not prohibit the fiduciary from making a best-interest determination regarding disbursement of funds according to the beneficiary's request to make a gift. See Attachments 1b and 1c. Accordingly, if a beneficiary wishes to gift funds, and his fiduciary determines that he has sufficient funds under management for the gift, VA Forms 27-4703 and 21-4703 do not prohibit the gift.

The OSC letter also states that the "prohibition on gifting funds is repeated in the [VBA Adjudication Procedures Manual Rewrite, M21-1MR (Manual)]." OSC letter at 2. However, the Manual does not prohibit gifts on behalf of the beneficiary. Rather, it discourages gifts while recognizing that they "may be allowed" subject to certain

circumstances. See Manual, Part XI, chapter 3.D.17.g. Under the applicable Manual provisions, a fiduciary may comply with a beneficiary's gift request if the gift would not deplete funds under management that the beneficiary or the beneficiary's dependents need for maintenance, reasonably foreseeable expenses, or reasonable improvements in the beneficiary's and the beneficiary's dependents' standard of living. *Id.* Specifically, the Manual instructs VA's fiduciary personnel to evaluate a gift in the context of what a VA beneficiary, who is not in the Fiduciary Program might do under similar circumstances, to include considering whether the gift was made out of surplus funds and whether it was reasonable given the beneficiary's financial resources. *Id.* Under these provisions, court order is required if the VA-appointed fiduciary is also the beneficiary's court-appointed guardian and State law requires the fiduciary to obtain a court order, the gift is for something other than that which the beneficiary had been giving, or the amount is substantial. *Id.*

The OSC letter states that the transactions identified by Mr. Krannig "indicate account misuse and a failure of the WAFH to properly examine and monitor the use and distribution of beneficiaries' assets." It asserts that the WAFH approved gifts "that do not appear to be for the use and benefit of the veteran." OSC letter at 3. However, as described above and in greater detail below regarding the specific transactions, Mr. Krannig mistakenly assumed that any gift made by a fiduciary pursuant to the request of the beneficiary, regardless of the facts of a case, constitutes fiduciary misuse.

A fiduciary's authority to disburse a beneficiary's funds as gifts pursuant to the request of the beneficiary is consistent with VA policy, which recognizes that beneficiaries in the Fiduciary Program are entitled to the same standard of living as any other beneficiary with the same or similar resources. The Fiduciary Program is not for the purpose of preserving funds for the beneficiary's heirs or disbursing funds according to the fiduciary's own beliefs, values, preferences, and interests. While the Manual recognizes a beneficiary's right to make gifts and prescribes procedures for evaluating gifts, see Manual, Part XI, chapter 3.D.17.g., VA's current regulations do not provide clear rules regarding beneficiary rights and fiduciary responsibilities. VA is addressing these shortcomings in a pending rulemaking.

In April 2012, VBA issued guidance to fiduciary field personnel to clarify that upon appointment, "the fiduciary relationship is between the VA-appointed individual or entity and the beneficiary. Fiduciaries hold a position of trust, in which they owe certain responsibilities to the beneficiary, including the obligation to determine which expenditures from beneficiary funds are in the beneficiary's best interests." See Fast Letter 12-13, Attachment 3. After the issuance of this guidance, fiduciaries do not need to seek prior VA approval for any single expenditure made on behalf of a beneficiary, regardless of the amount or the purpose of the expenditure. *Id.* at 2. However, the guidance noted that VBA would continue its oversight activities and verify questionable expenditures identified in account audits. *Id.*

Prior to October 2009, field personnel followed Manual provisions on beneficiary gifts. At that time, the Manual stated that fiduciaries should seek prior approval before disbursing funds for a beneficiary's gift. See Manual, Part XI, chapter 3.D.17.g. While the Manual provided guidance for VA employees, not fiduciaries, and did not prescribe a specific amount above which approval for a beneficiary gift should be sought, employees generally applied a \$500 threshold. In October 2009, Fast Letter 09-42 instructed fiduciary field personnel to evaluate proposed expenditures that exceed \$1,000 for VA approval. See Attachment 4. That guidance was rescinded in April 2012 by Fast Letter 12-13. See Attachment 3.

Allegation 1

The WAFH inappropriately approved a distribution of benefit income in the amount of \$25,000 for the purchase of a vehicle as a gift for a Veteran's non-dependent niece; the vehicle was never used to benefit the Veteran.

Findings:

VA rated (b) (6) "incompetent" on August 2, 1982. See Attachment 12, at 2. (Note: For purposes of VA's Fiduciary Program, an incompetency rating means only that the beneficiary cannot manage his or her VA benefits. 38 C.F.R. § 3.353(a). It does not mean that the beneficiary is incompetent for any other purpose.) (b) (6) who resides at his own expense at Johnson House Assisted Living, in Pueblo, Colorado, receives \$2,816 per month in VA compensation. See Attachment 4a. During his interview for this investigation, (b) (6) stated that he asked VA to appoint a bank as his fiduciary. Fiduciary CB&T is the bank appointed as his VA fiduciary and is also his court-appointed guardian. See Attachments 4a and 4b.

In July 2009, (b) (6) requested that he be allowed to purchase a vehicle for his niece because it would be "the Godly thing to do." See Attachment 6, at 5. (b) (6) sent his fiduciary several written statements indicating that it was his desire to purchase a vehicle for his niece. *Id.* VA fiduciary personnel also received a statement, dated July 20, 2009, from a Veterans Health Administration social worker, to whom (b) (6) had voiced his request to purchase a vehicle for his niece. See Attachment 5. At the time of these requests, (b) (6) did not own a vehicle. Attachment 4a. (b) (6) niece did not own a vehicle until (b) (6) purchased one for her. *Id.* During their interviews for this investigation, (b) (6) and Fiduciary CB&T both stated the vehicle was a gift.

After receiving (b) (6) request to purchase a vehicle for his niece, Fiduciary CB&T followed VA procedures and requested that the WAFH approve disbursement of funds for the purchase. According to VA Regional Counsel, Colorado has adopted the Uniform Veterans Guardianship Act (UVGA), which governs the management of the estate for cases filed under its provisions or conservatorships.

for Veterans receiving VA benefits filed under the Colorado Probate Code. COLO. REV. STAT. ANN. § 28-5-201 et. seq. Where the Probate Code and the UVGA conflict on an issue, the UVGA controls, and where the UVGA is silent, one can look to the Probate Code. *Id.* § 28-5-222. Section 28-5-215 of Colorado Probate Code provides that "[a] guardian shall not apply any portion of the income or the estate for the support or maintenance of any person other than the ward, except upon petition to and prior order of the court after a hearing." A copy of the petition and notice regarding a hearing must be furnished to the appropriate VA office at least 15 days prior to the court hearing on the request. *Id.* §§ 28-5-203 and 28-5-215. VA has an opportunity to object to the expenditure and request a hearing. See *id.* If VA (or any other interested party) does not object, the court will enter an order approving the expenditure. See Attachment 4a.

Fiduciary CB&T's Motion to Authorize Extraordinary Expenditure for Vehicle Purchase in this case, which was filed with the court, requested up to \$25,000 in a one-time expenditure to assist (b) (6) niece with the purchase of a vehicle. See Attachment 6. The WAFH reviewed the motion and information regarding the funds under management for (b) (6) by Fiduciary CB&T. See *id.* The motion stated that (b) (6) had \$447,583.70 under management by Fiduciary CB&T at the time of his request to assist his niece. *Id.* The WAFH followed VA procedures regarding large expenditures and completed its review of (b) (6) request on July 28, 2009. The WAFH concluded that it had no objection to Fiduciary CB&T's motion. See Attachment 7.

The Bent County Colorado District Court approved (b) (6) request on August 3, 2009. See Attachment 8. The Court's order authorized a one-time payment of up to \$25,000 to (b) (6) niece from the funds that Fiduciary CB&T had under management. *Id.*

On August 21, 2009, the WAFH sent Fiduciary CB&T an approval letter, in which it stated, "[o]n July 28, 2009, we completed our review of your request for purchase of automobile in the amount of \$25,000. . . . Your request has been APPROVED." See Attachment 9.

With the exception of (b) (6) subsequent request that Fiduciary CB&T disburse \$4,500 for repairs to his niece's vehicle (see Allegation 2 below), (b) (6) has not requested disbursement of other funds for gifts to family members or other individuals.

Conclusion:

Mr. Krannig alleges that the WAFH should not have approved the gift to (b) (6) niece because it benefited the niece, not (b) (6) OSC letter at 4. However, as described above, VA's policies and procedures do not prohibit disbursing funds for gifts pursuant to a beneficiary's request.

(b) (6) requested disbursement of funds from his fiduciary account for the purpose of purchasing a car for his niece. There is no general prohibition of such gifts in VA's policies and procedures for the fiduciary program. The WAFH followed the then applicable procedures and properly reviewed and approved the disbursement of funds from (b) (6) account. The gift was one that a beneficiary might make if he or she had the same resources as (b) (6) and was competent to manage his or her own financial affairs. See Manual, Part XI, chapter 3.D.17.g. (gift may be allowed if beneficiary would have given gift if competent). (b) (6) had substantial surplus funds under management by Fiduciary CB&T at the time of the gift, and the gift was clearly from funds for which (b) (6) did not have an immediate need. *Id.* (Gift may be allowed if made from surplus income). Accordingly, the WAFH correctly concluded that the disbursement was reasonable under the circumstances.

Recommendation:

VBA should review its policies and procedures regarding beneficiary rights, including the right to request disbursement of funds for gifts, and regarding fiduciary responsibilities. It should improve its training for field examiners. VBA should also revise VA Form 21P-4703 to clarify that the beneficiary may request that the fiduciary pay gifts from surplus funds under certain circumstances.

VBA's Pension and Fiduciary (P&F) Service has already taken steps to address these concerns. It has completely rewritten all of the VA fiduciary regulations in 38 Code of Federal Regulations (CFR) part 13. The proposed regulations have been approved within VA and are pending Office of Management and Budget review and clearance for publication in the Federal Register for public comment. P&F Service will rewrite the fiduciary Manual provisions and forms based upon the final regulations that VA issues. P&F Service also developed new training for field examiners, and that training has already been given to field examiners hired in fiscal year 2012. P&F Service will publish a new handbook for volunteer fiduciaries, which, among other things, will advise fiduciaries about beneficiary rights, fiduciary responsibilities, management of funds, and accounting and audit procedures. This handbook is already in final draft form and could be ready for distribution as early as August 2013.

Allegation 2

The WAFH inappropriately approved payments for repairs and insurance for the vehicle purchased for the niece described in Allegation 1.

Findings:

In May 2011, (b) (6) provided Fiduciary CB&T written requests for the disbursement of funds for repairs to the vehicle that he purchased for his niece in 2009. See Attachment 10. In his request for \$4,500 to give his niece for the repairs he stated, "I want to ask the VA if I can help my family when needed!" See Attachment 10, at 5. (b) (6) also requested funds to cover the cost of insurance for the vehicle. See Attachment 10, at 11.

With respect to these requests, Fiduciary CB&T again followed the correct procedures for seeking the court's and VA's approval. On May 6, 2011, the WAFH received Fiduciary CB&T's request for approval of (b) (6) request. *Id.* at 1. The WAFH reviewed the request and the funds under management by Fiduciary CB&T for (b) (6) and advised Fiduciary CB&T of its approval on May 6, 2011. *Id.* at 12. The Bent County Colorado District Court reviewed and approved the request on June 1, 2011. See Attachment 11.

A field examination conducted by the WAFH on November 2, 2012, verified that (b) (6) had \$439,004 under management by Fiduciary CB&T. See Attachment 12.

Conclusion:

The OSC letter asserts that the WAFH approved (b) (6) request "without inquiry into whether the niece had assisted the Veteran with transportation issues or if the purchase of the vehicle had provided any benefit to the Veteran." See OSC letter at 5. However, as described above, there is no requirement that a gift directly benefit the beneficiary making the gift. Further, while the WAFH did not produce a document containing a detailed analysis of the requested gifts, it is clear from available records that the WAFH received, reviewed, and properly approved the request. There were no procedures that required the WAFH to produce a specific document in response to a request to approve a gift.

In this case, (b) (6) requested that Fiduciary CB&T give his niece \$4,500 for repairs to the vehicle that he purchased for her and insurance. Based upon the nature of the request and the substantial surplus funds that (b) (6) had under management by Fiduciary CB&T at the time of the request, the WAFH's approval complied with VA's policies and procedures. The gift was reasonable under the circumstances and confirmed by the court.

Recommendation:

Further action is not necessary

Allegation 3

The WAFH inappropriately approved distribution of benefit income from a retroactive lump-sum payment for a series of cash gifts to non-dependent family members and a church in excess of \$100,000.

Findings:

A review of the VVA record indicates VA rated (b) (6) incompetent for purposes of managing his VA benefits on November 27, 1990. Upon (b) (6) request, VA appointed his brother, Fiduciary PV, as his fiduciary. (b) (6) who lives in a home that Fiduciary PV owns in rural Trinidad, Colorado, currently receives \$3,504 per month in VA compensation. See Attachment 4a. Fiduciary PV lives next door to (b) (6) *Id.*

On December 20, 2011, VA determined that (b) (6) was entitled to a retroactive benefit payment in the amount of \$631,639.30 for a 100-percent service-connected disability rating, effective January 15, 1976, and aid and attendance benefits, effective February 19, 2008. See Attachment 13, at 1 and 4. VA paid Fiduciary PV this amount on behalf of (b) (6) on February 10, 2012. See *id.* at 4.

On February 8, 2012, Fiduciary PV sent VA a letter on behalf of (b) (6) that requested approval of payments to some of (b) (6) relatives. See Attachment 14, at 2-4. The request stated that (b) (6) wanted to give each of his children and his granddaughter \$13,000. *Id.* at 2. It also stated that he wanted to make payments to relatives who had cared for him for many years and who had incurred expenses on (b) (6) behalf or had loaned him money. *Id.* at 2-3. Finally, it stated that (b) (6) had a "strong belief that this money was a blessing," and that "10 percent should be given back" in the form of an annual gift of \$20,000 to his church over a 5-year period. *Id.* at 3-4.

During an interview for this investigation, Fiduciary PV stated that after (b) (6) discharge from the Army in 1968, his "mental problems" prevented his employment, and he depended on his family for his care and basic needs. Fiduciary PV stated that (b) (6) had lived with him and his family for the past 13 years, and that they have provided for (b) (6) needs, to include his transportation, meals, laundry, housekeeping, medication management, shopping and dental care.

In a February 16, 2012, letter approving (b) (6) request, the WAFH noted that (b) (6) had received a retroactive award of \$631,639.30 under management by Fiduciary PV. See Attachment 15.

In his interview for this investigation, Mr. Krannig expressed concern regarding the case because Fiduciary PV, not (b) (6) requested VA's approval. However, under the policies and procedures in place at the time of the request, see Fast Letter 09-42, Attachment 4, such requests had to come from the fiduciary who was managing the beneficiary's funds. Regardless, the team interviewed Fiduciary PV and (b) (6) during this investigation. Both stated that all requests for gifts and expenditures were at the request of (b) (6). (b) (6) also confirmed that he had specifically requested that Fiduciary PV make the gifts to specified family members, so that they might be able to enjoy the money he gave them while he was still alive.

The team confirmed that in 2012, (b) (6) gave 12 family members \$1,000 gifts, one family member a gift of \$3,000, and five family members gifts of \$13,000. In 2013, (b) (6) gave his brother, daughter, and two sons each a gift of \$12,000. Each of these individuals also had received one of the \$13,000 gifts in 2012. It also confirmed the gift to Apostolic Church in Trinidad, Colorado. During his interview for this investigation, Fiduciary PV noted that the guidance he had received from VA was limited and inconsistent. Prior to the February 2012 retroactive benefit payment, he received a document titled *Federal Fiduciary Guidelines* (see Attachment 16) from WAFH but did not receive any other guidance from VA regarding his responsibilities as a fiduciary. After he received (b) (6) retroactive payment, a VA field examiner visited and advised him regarding his obligations. That advice was later contradicted by telephone calls from other representatives of the WAFH.

Conclusion:

The OSC letter restates Mr. Krannig's concerns about expenditures that are gifts rather than expenditures solely for the use and benefit of the beneficiary and the beneficiary's dependents. It also alleges that the WAFH failed to "review and oversee (b) (6) gift requests and enforce the VA prohibition on gifting," which resulted in further gifting in the amount of \$1,000 to each family member. See OSC letter at 5-6. However, there is no prohibition on beneficiary gifts, and the information reviewed by the team for this investigation indicates that the WAFH reviewed and properly approved the requests that it received. While it is clear that (b) (6) later requested that Fiduciary PV disburse further small gifts to his family, which the WAFH did not review and approve, VBA procedures did not require such a review. See Fast Letter 09-42 (requiring prior VA approval for expenditures exceeding \$1,000). See Attachment 4. Rather, it was Fiduciary PV's obligation to ensure that (b) (6) had surplus funds available for the gifts and that the gifts were in his interest.

While 38 CFR § 13.64(c) prohibits payment of commissions to family member fiduciaries for providing fiduciary services, Fiduciary PV's payments to himself from (b) (6) funds were not intended as compensation for fiduciary services. Rather, they were gifts and partial reimbursement of expenses requested by (b) (6) because Fiduciary PV and Fiduciary PV's spouse had provided care for (b) (6) for many years. In this case, the payments did not violate section 13.64(c).

Under the policies and procedures described above, the WAFH properly approved the gifts to (b) (6) relatives. (b) (6) specifically requested that Fiduciary PV disburse funds for the gifts; he had substantial surplus funds under management by Fiduciary PV at the time of the request; he had no immediate need for the surplus funds; and the gifts were comparable to those that a beneficiary might make if he or she had the same resources as (b) (6) and was competent to manage his or her own financial affairs. See Manual, Part XI, chapter 3.d.17.g. A state court order was not required under the Manual because Fiduciary PV was not a court-appointed fiduciary. See *id.* Accordingly, the WAFH correctly concluded that the disbursement was reasonable under the circumstances.

Recommendation:

Further action is not necessary.

Allegation 4

The WAFH failed to follow agency policy and procedure mandated by the Fiduciary Manual, M21-1MR, Part XI, in response to allegations of misuse of funds and fiduciary wrongdoing filed by Mr. Krannig.

Findings:

(b) (6)
On September 14, 2009, Mr. Krannig alleged that Fiduciary CB&T had misused (b) (6) VA benefits when it disbursed funds for the purchase of a vehicle for (b) (6) niece. See Attachment 17, at 1. Although the WAFH had already reviewed the matter and approved (b) (6) purchase, it interpreted Mr. Krannig's internal allegation as a formal misuse allegation and referred the matter to WAFH's misuse team. *Id.*

The WAFH misuse team determined that no further investigation was necessary regarding Mr. Krannig's allegation of fiduciary misuse because approval procedures were followed by Fiduciary CB&T and the WAFH. *Id.* at 2. In this regard, the misuse team determined that the gift did actually benefit (b) (6). *Id.* On September 30, 2009, the Legal Instruments Examiner (LIE) evaluating Mr. Krannig's allegation of misuse recommended "[n]o further action necessary." *Id.* The WAFH Manager reviewed the matter and concurred in the recommendation. *Id.* In

reviewing Mr. Krannig's allegation of fiduciary misuse, the WAFH followed all of the applicable procedures in Manual, Part XI, chapter 5 B.

(b) (6)

On July 27, 2012, Mr. Krannig completed a field examination on (b) (6) Fiduciary PV. See Attachment 18. In his field examination report, Mr. Krannig expressed concern regarding Fiduciary PV's remarks about future gifting, recommended his removal and appointment of a successor fiduciary, and concluded that Fiduciary PV's prior disbursement of funds for (b) (6) gifts was evidence of misuse. *Id.* at 10-11.

According to the OSC letter at 6, during the field examination with Mr. Krannig, Fiduciary PV requested approval of (b) (6) gifts to his church. OSC letter at 6 states, "Mr. Krannig denied the fiduciary's request to include a monthly tithe in the beneficiary's monthly usage budget on the basis that the tithe was a recurring gift and, as such, not an appropriate expenditure of the beneficiary's VA income." If Mr. Krannig denied the request on-the-spot as described in the OSC letter, the denial would have violated applicable VA policies. See Fast Letter 12-13 (VA-appointed fiduciaries do not need to seek prior VA approval for single expenditures made on behalf of beneficiary, regardless of amount); see Manual, Part XI, chapters 5.B 6.c. (possibility of misuse must be referred to a fiduciary supervisor for review) and 3.D.17.d. (LIE must review expenditures when auditing fiduciary's annual accounting).

OSC letter at 6 states, "Mr. Krannig documented statements from the former fiduciary acknowledging that the funds were gifts and stating further that, had he understood VA's process correctly, he would have gifted additional funds." The OSC letter also states that "the pre-approval requirement applied to all transactions equal to or greater than \$1,000." *Id.* However, Mr. Krannig's concerns about Fiduciary PV's remarks were misplaced given VA's revised policy, under which fiduciaries do not need to seek VA approval for any single expenditure regardless of amount and any VA oversight is conducted through evaluation of accountings. See Attachment 3, at 2; Manual, Part XI, chapter 3.D.17.g. Mr. Krannig was aware of VA's policies on gifts and expenditure approvals, but it is unclear whether he properly advised Fiduciary PV regarding those policies when he conducted the field examination. However, Fiduciary PV had previously received the document titled *Federal Fiduciary Guidelines*, See Attachment 16. The WAFH produced this document. It states that a fiduciary may use a beneficiary's funds for purposes that would "improve the [beneficiary's] quality of life" and "meet [the beneficiary's] comfort needs." *Id.* at 1. However, the document also states, "You cannot spend the money on anyone other than [the beneficiary] and his/her dependents." *Id.* at 2. These statements might be construed as inconsistent, as gifting could be considered consistent with the first statement and inconsistent with the second. Regardless, this locally-produced document did not supersede applicable Manual provisions and Fast Letters.

The OSC letter at 6 states that Mr. Krannig removed PV as (b) (6) fiduciary and substituted an institutional fiduciary. However, under 38 CFR § 13.55, only a Veterans Service Center Manager (now Fiduciary Hub Manager) may appoint a fiduciary. The procedure for processing a field examiner's recommendation to remove a fiduciary and appoint a successor fiduciary begins with an LIE's receipt of the recommendation, which the LIE evaluates and forwards to a supervisor for further evaluation and approval or denial. See Attachment 20; Manual, Part XI, chapter 1 B.7. If the Hub Manager approves the proposed action, the Hub Manager returns the document to the LIE for implementation, including any action to adjust benefit payments. Attachment 20; Manual, Part XI, chapter 1 B.7 c. It is unclear what happened in this case, but VA does not have a record of any supervisory approval of Mr. Krannig's recommended removal of Fiduciary PV and appointment of a successor fiduciary. Nonetheless, information regarding the successor fiduciary proposed by Mr. Krannig was mistakenly entered into VBA's fiduciary system on August 1, 2012, which had the unintended effect of removing Fiduciary PV as his brother's fiduciary. See Attachment 18a.

Someone at the WAFH discovered the unauthorized removal of Fiduciary PV because the system indicates that Fiduciary PV was reinstated as (b) (6) fiduciary on the same date as his removal. *Id.* Further, the WAFH did not send any correspondence to (b) (6) or Fiduciary PV regarding the removal and did not change payment of benefits to the recommended successor. Action by the WAFH to reappoint Fiduciary PV was not necessary because the removal was based upon an administrative error that the WAFH immediately corrected. As part of this correction, on August 1, 2012, another field examiner completed a field examination report confirming that there was no evidence to support removing Fiduciary PV as (b) (6) fiduciary. See Attachment 19. The report stated, "All expenses paid with retro funds were approved by the VA." *Id.* at 10. In addition, the field examiner reported a \$350 monthly tithe within the fund usage agreement, as well as authorization for \$43,163 for a remaining tithing out of surplus funds. *Id.* at 9, 10. The field examination report reflects sufficient surplus funds for the gifts. *Id.* at 1; Manual, Part XI, chapter 3.D.17.g. The WAFH did not require a new VA Form 21-4703, *Fiduciary Agreement*, for Fiduciary PV because the WAFH did not certify payment of (b) (6) benefits to the successor fiduciary and did not notify Fiduciary PV that he had been removed.

Mr. Krannig alleged that Fiduciary PV misused his brother's benefits. He also stated that WAFH management instructed him to change his July 27, 2012, field examination report by removing documents that referenced Fiduciary PV's misuse of his brother's benefits, and that he had refused. Mr. William Van Berckelaer, who supervised Mr. Krannig, stated during the June 28, 2013, interview, that he verbally instructed Mr. Krannig to remove the misuse information from his field examination report and provide it in the format required by the WAFH's *S[tandard] O[perating] P[rocedures] for Processing Misuse* (See Attachment 20). Mr. Van Berckelaer also stated during the interview that he instructed Mr. Krannig to make the change because Mr. Krannig did not follow the procedure for submitting misuse allegations.

He also confirmed that Mr. Krannig refused to comply with his instructions. Documents relating to the July 27, 2012, field examination conducted by Mr. Krannig are in (b) (6) electronic VVA records.

On page 6, the OSC letter states that Mr. Krannig made a finding of misuse. This is not correct. Under Manual provisions at Part XI, chapter 5.D.12.a., misuse determinations are reserved for a supervisor and only with concurrence of the Hub Manager and the VA Regional Office Director. See Attachment 20.

Although the WAFH had already reviewed and approved (b) (6) gifts to members of his family, it interpreted Mr. Krannig's concerns as a formal misuse allegation and addressed it in accordance with the Manual provisions in Part XI, chapter 5.B. The documents available for review by the misuse team included an independent field examination report completed on August 1, 2012. See Attachment 19, at 2. The misuse team reviewed the matter and found no misuse because (b) (6) gifts were to family members for the many years of care and support they provided when he had only limited funds. See Attachment 21, at 1. On August 9, 2012, Ms. Jody Moffitt, LIE at the WAFH, recommended a "No misuse found" determination regarding Mr. Krannig's allegation. *Id.* at 2. Mr. Ron Taylor, WAFH Coach, and Mr. Richard Colby, Acting WAFH Manager, concurred in Ms. Moffitt's recommendation. *Id.*

On page 6, the OSC letter questions whether the WAFH could conduct an initial misuse investigation without a face-to-face meeting with the fiduciary. Each allegation of misuse is reviewed for merit within 14 days of receipt of the allegation or identification of potential misuse by VA. See Manual, Part XI, chapter 5.B.8.a. Under Manual provisions at Part XI, chapter 5.B.8.d., VA may decide not to investigate, and under Manual provisions at Part XI, chapter 5.C.10.b., a meeting with the fiduciary is necessary only if the allegation of misuse warrants a formal investigation. In this case, the allegation did not meet the criteria for a formal investigation. See Attachment 21. In addition, the independent field examiner spoke with the fiduciary by phone on August 1, 2012. See Attachment 19, at 3.

On page 6, the OSC letter also questions whether it was appropriate to make a no-misuse determination in this case when VA policy prohibits beneficiary gifts. However, as explained above, there is no such prohibition. See Manual, Part XI, chapter 3.D.17.g.; Fast Letter 12-13, Attachment 3.

On page 6, the OSC letter notes that the WAFH's misuse determination did not specifically address the \$20,000 gift to (b) (6) church. While these gifts were not specifically addressed by the misuse team, the WAFH did review and approve (b) (6) request to make a gift to his church from the substantial surplus funds in his fiduciary account. This approval is covered in WAFH's correspondence dated February 16, 2012. See Attachment 15. The approved gift is also referenced in the independent field examination report completed on August 1, 2012. See

Attachment 19 This report is referenced as a source document in WAFH's determination that no misuse occurred. See Attachment 21.

On page 6, the OSC letter also questions whether the WAFH has adequately protected (b) (6) VA benefits. Mr. Krannig raised this issue when he alleged that (b) (6) funds were not adequately insured. In his June 3, 2013, telephone interview for this investigation, Mr. Greg Burrell of Met Life Financial Services stated that (b) (6) funds are held in two accounts. Approximately \$90,000 is in Account A, which is a mutual fund account that is insured by the Federal Deposit Insurance Corporation (FDIC). Account B contains a little over \$400,000 and is not insured by the FDIC but is protected by the Colorado Life and Health Association Protection Act for up to \$250,000. The remainder of the funds in Account B are guaranteed by the assets of Met Life. Mr. Burrell stated the U.S. Government requires Met Life to maintain a high reserve to cover all accounts, and that Met Life's current reserves are approximately \$500 billion. He also stated that he had several conversations with Fiduciary PV, Fiduciary PV's attorney, and WAFH staff, prior to Fiduciary PV making any decisions regarding the investment of (b) (6) funds.

Conclusion:

The WAFH properly reviewed and approved (b) (6) and (b) (6) gifts, which their VA fiduciaries paid out of their substantial surplus funds. Despite these prior approvals, Mr. Krannig alleged that the fiduciaries misused VA benefits by disbursing funds for gifts. The WAFH took Mr. Krannig's allegations seriously and followed applicable review procedures before determining that further investigation was unnecessary. While the review of the misuse allegation regarding Fiduciary PV did not specifically address (b) (6) gift to his church, the WAFH approved the gift prior to Mr. Krannig's misuse allegation and a source document for the misuse determination references the gift. Finally, there is no evidence to support the allegation that there is inadequate protection of (b) (6) funds.

Recommendation:

Mr. Krannig's allegations suggest that he may not be fully aware of the policies and procedures applicable to the funds under management by fiduciaries and fiduciary misuse of benefits. VBA should improve its training for field examiners to ensure that they are not unduly restrictive in their oversight of fiduciaries and properly advise fiduciaries regarding their obligations. As noted above regarding Allegation 1, P&F Service has already taken steps to improve VBA's policies, procedures, and training for the fiduciary program.

Summary Statement

The team that investigated Mr. Krannig's allegations found no evidence that a WAFH employee engaged in conduct that may constitute a violation of law, rule or regulation, or gross mismanagement, gross waste of funds, or an abuse of authority. However, it did identify a need for improved policies, procedures, and forms, particularly with respect to a beneficiary's right to provide gifts from surplus funds that a fiduciary has under management for the beneficiary. It also identified a need for improved field examiner training. Mr. Krannig's allegations suggest that he either was unaware of the policies and procedures applicable to gifts and misuse of benefits or required further guidance regarding proper application of those policies and procedures. Finally, the team identified a need for training products that advise fiduciaries regarding their obligations, the rights of beneficiaries, and the circumstances under which fund management includes the authority to disburse gifts according to the beneficiary's instructions.

Attachments:

Attachment 1: VA Form 27-0820, *Report of General Information*, dated April 23, 2013 and information regarding the OIG investigation referenced by Mr. Krannig during his telephone interview, dated June 11 and August 22, 2011

Attachment 1a: VA Form 21P-4703, *Fiduciary Agreement* (Apr. 2012)

Attachment 1b: VA Form 27-4703, *Fiduciary Agreement*, signed by Fiduciary CB&T

Attachment 1c: VA Form 21-4703, *Fiduciary Agreement*, signed by Fiduciary PV

Attachment 2: List of interviews conducted in conjunction with this report

Attachment 3: Fast Letter 12-13, *Preapproval of Single Expenditures by a Fiduciary*, dated April 19, 2012

Attachment 4: Fast Letter 09-42, *Increased Threshold for Pre-approval of Single Expenditures by a Fiduciary*, dated October 19, 2009

Attachment 4a: Notes by Field Examiner, Central Area Hub – Lincoln, Nebraska, based on beneficiaries' files and interviews with beneficiaries and VA Regional Counsel

Attachment 4b: Letters of Guardianship for (b) (6) District Court, Huerfano County, Colorado, Case No. 83 PR 28, dated November 18, 1996

Attachment 5: Letter from social worker, dated July 20, 2009, on behalf of (b) (6) (b)

Attachment 6: Request from (b) (6) and Motion to Authorize Extraordinary Expenditure for Vehicle Purchase, dated July 24, 2009

Attachment 7: WAFH approval to purchase vehicle, (b) (6) dated July 28, 2009

Attachment 8: Court Order approving purchase of vehicle, (b) (6) dated August 3, 2009

Attachment 9: WAFH approval to purchase vehicle, (b) (6) dated August 21, 2009

Attachment 10: Request from (b) (6) to maintain vehicle, received May 6, 2011, and WAFH approval to pay for repairs of vehicle, dated May 6, 2011

- Attachment 11: Court Order approving vehicle maintenance, (b) (6) dated June 1, 2009
- Attachment 12: Field examination report, (b) (6) dated November 2, 2012
- Attachment 13: VA rating decision, dated December 20, 2011, and Share Payment History screenshot for (b) (6) dated April 25, 2013
- Attachment 14: Request to expend funds, (b) (6) dated February 8, 2012
- Attachment 15: Approval to expend funds, (b) (6) dated February 16, 2012
- Attachment 16: WAFH *Federal Fiduciary Guidelines*, undated
- Attachment 17: Misuse Allegation Report, (b) (6) dated September 30, 2009
- Attachment 18: Field examination report, (b) (6) dated July 26, 2012
- Attachment 18a: Corporate record of fiduciary change, dated April 25, 2013
- Attachment 19: Field examination report, (b) (6) dated August 1, 2012
- Attachment 20: WAFH *SOP for Processing Misuse (Amended)*, dated October 22, 2009
- Attachment 21: Misuse Allegation Report, (b) (6) dated August 9, 2012
- Attachment 22: Excerpts of manual references, M21-1MR, Part XI

Tab 1



REPORT OF GENERAL INFORMATION

NOTE - This form must be filled out in ink or on a typewriter or computer, as it becomes a permanent record in the veteran's folder.		1. VA OFFICE 334	2. IDENTIFICATION NUMBERS (C, XC, SS, XSS, V, K, etc.)
3. LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN (Type or print)		4. DATE OF CONTACT (Month, day, year) 04/23/2013	
5. ADDRESS OF VETERAN (Include number and street or rural route, city or P.O., State and ZIP Code)		6A. TELEPHONE NUMBER OF VETERAN (Include Area Code) DAY EVENING	
		6B. E-MAIL ADDRESS (If applicable)	
7. NAME OF PERSON CONTACTED Robert Krannig, Field Examiner		8. TYPE OF CONTACT <input type="checkbox"/> PERSONAL <input checked="" type="checkbox"/> TELEPHONE	
9. ADDRESS OF PERSON CONTACTED		10. TELEPHONE NUMBER OF PERSON CONTACTED (Include Area Code) 720-237-9492	

I certify that I properly identified my caller using the ID Protocol

11. BRIEF STATEMENT OF INFORMATION REQUESTED AND GIVEN:
I spoke with Mr. Robert Krannig, field examiner in Colorado regarding his concerns with policy and procedures implemented by the Western Area Fiduciary Hub (WAFH). I asked Mr. Krannig if he had anything else to add to the information that he submitted to the Inspector General (IG) and the Office of Special Counsel (OSC).

Mr. Krannig stated that this process started at least three years ago when the WAFH was just the pilot Hub and that he stated that the WAFH did not have prior Fiduciary experience. He also stated that from 2005-2009 the Fiduciary Chiefs at VA Central Office (VACO) stated that part of the field examiner's job was to approve and help manage funds. He also stated that VACO stated during that time that no gifts were to be allowed. Furthermore, he was instructed by Denver Regional Counsel, Tom Kennedy, that in order to grant a recurring tithe for churches, the fiduciary or VA beneficiary must show 3-5 years of continuous tithes. If they could not show the continuous tithes, then the request should be denied. This was his guidance that he followed prior to being consolidated to the WAFH.

In March 2010, Krannig stated that he had an argument with Franko Fritz, WAFH Manager, because, he stated that Mr. Fritz was referring to Section 5 of the Manual Rewrite regarding gifts that are approved for LIEs during the accounting process. Mr. Krannig stated that the actual contention between him and Mr. Fritz is that Mr. Krannig states that the regulations are very clear in that the fiduciary cannot gift or tithe the VA beneficiary's money, only the VA beneficiary should be able to gift or tithe.

Notification of Action
 I read the following statement to the caller:
"I am a VA employee who is authorized to receive or request evidentiary information or statements that may result in a change in your VA benefits. The primary purpose for gathering this information or statement is to make an eligibility determination. It is subject to verification through computer matching programs with other agencies."
cc: POA (if applicable):

DIVISION OR SECTION
EXECUTED BY *Courteny Mochel, Field Hub Manager - Lincola*

PRIVACY ACT NOTICE: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 5, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA/21/22/28 Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. The responses you submit are considered confidential (38 U.S.C. 5701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 5 minutes to respond to the questions on this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. Valid OMB control numbers can be located on the OMB Internet Page at <http://www.reginfo.gov/public/init.do?PRAMain>. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

Attachment
1



REPORT OF GENERAL INFORMATION

NOTE - This form must be filled out in ink or on a typewriter or computer, as it becomes a permanent record in the veteran's folder	1 VA OFFICE	2 IDENTIFICATION NUMBERS (C, XC, SS, XSS, V, K, etc.)
3 LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN (Type or print)	4. DATE OF CONTACT (Month, day, year) 04/23/2013	
5 ADDRESS OF VETERAN (Include number and street or rural route, city or P.O., State and ZIP Code)	6A. TELEPHONE NUMBER OF VETERAN (Include Area Code) DAY: _____ EVENING: _____	
	6B. E-MAIL ADDRESS (If applicable)	
7 NAME OF PERSON CONTACTED Robert Krannig, Field Examiner	8 TYPE OF CONTACT <input type="checkbox"/> PERSONAL <input checked="" type="checkbox"/> TELEPHONE	
9 ADDRESS OF PERSON CONTACTED	10. TELEPHONE NUMBER OF PERSON CONTACTED (Include Area Code) ██████████	

I certify that I properly identified my caller using the ID Protocol

11 BRIEF STATEMENT OF INFORMATION REQUESTED AND GIVEN:
 Mr. Krannig contends that in the cases that he brought to the IG's attention that this was not the case, since he said that the fiduciary was the one gifting and tithing, not the veteran, particularly in the case involving ██████. Mr. Krannig stated that within 4 months of ██████ fiduciary receiving the retroactive payment one third of it was gifted or tithed away by the fiduciary, including gifting the fiduciary a large amount of money. Mr. Krannig mentioned that another field examiner with less than 6 months of experience approved additional funds for church tithes and that this was excessive. Mr. Krannig listed out the figures paid from the retroactive payment that were consistent with the information in the OSC report.

For the case involving ██████ niece, Mr. Krannig was concerned that the court just took the VA's expense approval letter for the car and did not question anything. He was concerned that the judge was new and just took the VA's approval.

Mr. Krannig stated that he has related his findings to about 3 people in the IG and OSC and I informed him that I had the report from the OSC to refer to and asked again if he had anything else he would like to add. He ended by saying that if we give funds to the VA beneficiary who is in the Fiduciary program, they cannot be held liable for the funds in their hands, but the funds in the hands of the fiduciaries that are misused are in direct violation of policy and procedures.

I thanked Mr. Krannig for his time today.

Notification of Action
 I read the following statement to the caller:
 "I am a VA employee who is authorized to receive or request evidentiary information or statements that may result in a change in your VA benefits. The primary purpose for gathering this information or statement is to make an eligibility determination. It is subject to verification through computer matching programs with other agencies."

cc POA (If applicable)
 DIVISION OR SECTION EXECUTED BY: *Christy Meacham, Fid. Hub Man - Lincoln*

PRIVACY ACT NOTICE: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 5, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed in the United States, litigation in which the United States is a party or has an interest, the administration of VA programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 58VA/21/22/28 Compensation, Pension, Education and Vocational Rehabilitation and Employment Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. The responses you submit are considered confidential (38 U.S.C. 5701), information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b)) Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 5 minutes to respond to the questions on this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. Valid OMB control numbers can be located on the OMB Internet Page at <http://www.reginfo.gov/public/do/PRAMain>. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

2011-02417-HL-0595CMe

Tuesday, September 06, 2011
8:58 AM

Pomerat, Charles H. (OIG)

From: VA OIG Hotline Referrals
Sent: Monday, August 22, 2011 12:43 PM
To: [REDACTED]
Cc: Pomerat, Charles H. (OIG)
Subject: VA OIG Hotline Case Closure 2011-02417-HL-0595, VARG, Salt Lake City, UT. RPO6

OIG Hotline Case Closure

1. Thank you for your response to the above-referenced OIG Hotline case referral. Please be advised that based on our review of your response this case has been closed. We appreciate your cooperation in this matter.

2. If you have any questions, please call Charles Pomerat (202-565-7796) or Cliff Phillips (202-565-8672).

STEVEN WISE
VA OIG HOTLINE DIRECTOR (53E)

cp

Tab 2

From: VA OIG Hotline Referrals
Sent: Monday, April 11, 2011 10:26 AM
To: [REDACTED]
Cc: Pomerat, Charles H. (OIG)
Subject: VA OIG Hotline Referral Case No. 2011-02417-HL-0595, VARO, Salt Lake City, UT. RP66

**Office of Inspector General
Hotline Case Referral**

1. **Response Due: June 11, 2011**

2. The VA Office of Inspector General (OIG) Hotline is referring the following allegation(s) for your review in accordance with VA Directive 0701:

ALLEGED PROBLEMS WITH ADMINISTRATIVE SERVICES

A confidential source contends that the Western Area Fiduciary Hub (Salt Lake City RO) Manager Franco Fritz, misused [REDACTED] funds when, in August 2009, he authorized that a niece of [REDACTED] be gifted \$25,000 of the Veterans' money to purchase a car. The source alleges that the vehicle was purchased and titled on August, 10, 2009 in the name of [REDACTED].

3. Please determine the merit of each complaint or allegation in accordance with VA Directive 0701, Appendix A, paragraph 2. Your response should include the OIG control number above and describe how the allegations were reviewed, whether they were substantiated, what corrective action you have taken to address any substantiated allegation(s), when you initiated or completed that action, and the value of any recoveries or savings. Please provide the name and telephone number or e-mail address of your point of contact in case we have follow-up questions or require documentation that supports your finding on each allegation. Disclosure of the information in this referral for purposes other than official use is prohibited.

4. Please email your response to VAOIG.HotlineReferral@va.gov. For your information, all or part of your report to the Inspector General may be available to the complainant under the Freedom of Information Act. If you have any questions, please call Charles Pomerat (202-565-7796) or Cliff Phillips (202-565-8672).

STEVEN E. WISE
VA OIG HOTLINE DIRECTOR (53E)

CP



Department of Veterans Affairs

FIDUCIARY AGREEMENT

Privacy Act Notice: VA will not disclose information collected on the form to any source other than what has been authorized under the Privacy Act of 1974 or Title 5, Code of Federal Regulations 1.576 for routine uses (i.e. request from a Congressman on behalf of a beneficiary) as identified in the VA system of records, 37VA27, VA Supervised Fiduciary/Beneficiary and General Investigative Records-VA, and published in the Federal Register. Your obligation to respond is mandatory. Giving your SSN account information is voluntary. Refusal to provide your SSN by itself will not result in the denial of benefits. The VA will not deny an individual benefits for refusing to provide his or her SSN unless the disclosure of the SSN is required by a Federal Statute of law in effect prior to January 1, 1975 and still in effect.

Respondent Burden: We need this information to appoint a fiduciary for the beneficiary's VA benefits. Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 5 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you can call 1-800-827-1000 to get information on where to send comments or suggestions about this form.

1. ADDRESS OF VA OFFICE (Complete mailing address)		2. VA CONTACT/PHONE NUMBER
3. NAME OF VETERAN (First - middle - last)	4. VA FILE NUMBER	5. SOCIAL SECURITY NUMBER

6. NAME(S) OF BENEFICIARY(IES)	
A.	D.
B.	E.
C.	F.

7. I, THE UNDERSIGNED FIDUCIARY, HEREBY AGREE TO SERVE AS:

- LEGAL CUSTODIAN
 CUSTODIAN-IN-FACT
 SPOUSE PAYEE (For veterans only)
 INSTITUTIONAL PAYEE (For veterans only)

and agree to use all beneficiary funds paid by the Department of Veterans Affairs (VA) for the benefit of the beneficiary(ies) listed above. I agree to invest any surplus funds as shown below in Item 8, or as may later be required by VA.

I AGREE TO SAVE THE FOLLOWING AMOUNTS:	8A. LUMP SUM AMOUNT	8B. MONTHLY AMOUNT	8C. EFFECTIVE DATE
	\$	\$	

I agree to release all beneficiary funds, U.S. savings bonds, and other securities under my control as a VA fiduciary upon the termination of my trust as directed by VA. If a beneficiary is a minor, I will turn over to the beneficiary all of his or her remaining VA-derived funds, U.S. savings bonds, or other securities at the time the beneficiary reaches the age of majority.

I understand that I am am not required to submit periodic accountings to VA of all the beneficiary's funds I receive and use. If I am required to account, a VA representative has explained to me the frequency, scope and format of the accounting.

I am aware of the information on page 4 of this agreement and will comply with the requirements stated.

I understand that this agreement may be altered only with VA approval.

I CERTIFY THAT if and while I am authorized to take a commission, I am not receiving and will not receive any other form of remuneration or payment in connection with rendering fiduciary services on behalf of the above named beneficiary(ies).

9A. SIGNATURE OF FIDUCIARY	9B. SOCIAL SECURITY NUMBER OR TAX ID NUMBER OF FIDUCIARY	9C. DATE SIGNED
9D. NAME OF FIDUCIARY (Type or print)	9E. TITLE OF FIDUCIARY	
10A. SIGNATURE OF FIELD EXAMINER	10B. DATE SIGNED	

NOTE: This agreement supersedes any existing fiduciary agreement involving the beneficiary(ies).

Handwritten signature and initials

BENEFICIARY'S NAME	BENEFICIARY'S FILE NUMBER
--------------------	---------------------------

FEDERAL FIDUCIARY AGREEMENT

You are being appointed as a Federal Fiduciary for the VA beneficiary listed above. As a Federal Fiduciary, you are responsible for receiving the beneficiary's VA income and ensuring the beneficiary's just debts are paid. Please initial in the "Initial" column next to each statement of understanding you agree to.

STATEMENT OF UNDERSTANDING		INITIAL
1	I UNDERSTAND THE "INFORMATION FOR FIDUCIARY" ON PAGE 4 OF THIS FORM.	
2	I UNDERSTAND THAT FUNDS ARE TO BE USED FOR THE BENEFICIARY AND HIS/HER RECOGNIZED DEPENDENT, IF APPLICABLE. I UNDERSTAND THAT I CANNOT BORROW, LOAN, OR GIFT FUNDS BELONGING TO THE BENEFICIARY.	
3	I UNDERSTAND THAT I MUST REPORT ANY OF THE FOLLOWING CHANGES TO THE FIDUCIARY ACTIVITY IMMEDIATELY: <ul style="list-style-type: none"> ▪ CHANGE IN ADDRESS OR PHONE NUMBER (BENEFICIARY'S OR FIDUCIARY'S) ▪ CHANGE IN INCOME OR DEPENDENTS ▪ INCARCERATION OR HOSPITALIZATION IN A VA OR STATE FACILITY ▪ DEATH OF THE BENEFICIARY OR DEPENDENT OF THE BENEFICIARY 	
4	I UNDERSTAND THAT I MUST ESTABLISH A PROPERLY TITLED BANK ACCOUNT AS FOLLOWS: BENEFICIARY'S NAME BY YOUR NAME, FEDERAL FIDUCIARY.	
5	I UNDERSTAND THAT IN NO INSTANCE SHALL THE BENEFICIARY'S FUNDS BE COMMINGLED WITH EITHER MY OR ANYONE ELSE'S FUNDS.	
6	I UNDERSTAND THAT ALL DISBURSEMENTS ARE TO BE MADE BY CHECK OR ELECTRONIC PAYMENT FROM THE CUSTODIAN BANK ACCOUNT. NO CHECKS ARE TO BE WRITTEN FOR CASH AND NO CASH WITHDRAWALS, NO EXCEPTIONS.	
7	I UNDERSTAND THAT I MUST KEEP ACCURATE, COMPLETE RECORDS AND RECEIPTS, REGARDLESS IF I AM REQUIRED TO SUBMIT PERIODIC ACCOUNTINGS.	
8	I UNDERSTAND THAT I AM REQUIRED TO COMPLETE PERIODIC ACCOUNTINGS. THE FIRST ACCOUNTING IS DUE ON _____	
9	I UNDERSTAND THAT I MUST STRICTLY ADHERE TO THE "FUND USAGE AGREEMENT" ON PAGE 3 OF THIS FORM. ANY DEVIATION MUST BE APPROVED IN WRITING BY THE FIDUCIARY ACTIVITY.	
10	I UNDERSTAND THAT IF I RECEIVE A ONE-TIME OR RETROACTIVE PAYMENT OF \$1,000 OR GREATER ON BEHALF OF THE BENEFICIARY, I MUST CONSERVE THE PAYMENT UNLESS I OBTAIN PRIOR APPROVAL FROM THE FIDUCIARY ACTIVITY.	
11	I UNDERSTAND THAT I AM/AM NOT REQUIRED TO PROVIDE A SURETY BOND IN THE AMOUNT OF \$ _____	
12	I UNDERSTAND THAT I WILL BE HELD RESPONSIBLE FOR MISUSE OF THE BENEFICIARY'S FUNDS OR FOR NOT ADHERING TO THESE REQUIREMENTS.	
13	I UNDERSTAND THAT VA MAY OBTAIN, AT ANY TIME FOR WHICH I AM FIDUCIARY, ASSET INFORMATION FROM THE FINANCIAL INSTITUTIONS FOR ALL ACCOUNTS ON BEHALF OF THE BENEFICIARY.	

The field examiner has explained my responsibilities and I have received a copy of this form.

SIGNATURE OF FIDUCIARY	DATE SIGNED
SIGNATURE OF FIELD EXAMINER	DATE SIGNED

FUND USAGE AGREEMENT

PART I - MONTHLY INCOME

As a Federal Fiduciary, you are responsible for receiving the beneficiary's VA income and ensuring the beneficiary's just debts are paid. The following is a list of all known income for the beneficiary. Please communicate any discrepancies with the Fiduciary Activity.

1	VA COMPENSATION /PENSION/DIC	\$
2	VA EDUCATION BENEFIT	\$
3	SOCIAL SECURITY	\$
4	OTHER RETIREMENT	\$
5	WAGES	\$
6	SPOUSE'S SOCIAL SECURITY INCOME	\$
7	SPOUSE'S OTHER INCOME	\$
8	SPOUSE'S WAGES	\$
9	RETROACTIVE BENEFITS	\$
TOTAL		\$

PART II - EXPENSES

The following information is correct to the best of my knowledge and I agree to the following expenditures:

		MONTHLY EXPENSE	PAID FROM VA BENEFIT
1	AUTO INSURANCE	\$	\$
2	CARE PROVIDERS	\$	\$
3	CELL PHONE	\$	\$
4	CLOTHING	\$	\$
5	CREDIT CARD	\$	\$
6	CREDIT CARD	\$	\$
7	CREDIT CARD	\$	\$
8	DEPENDENT SUPPORT	\$	\$
9	ELECTRICITY	\$	\$
10	FIDUCIARY FEE (if approved)	\$	\$
11	GAS/OIL/FUEL OIL	\$	\$
12	GROCERIES	\$	\$
13	INSTITUTIONAL CARE	\$	\$
14	INSURANCE - HOME/RENTERS	\$	\$
15	INSURANCE - HEALTH/DENTAL	\$	\$
16	INSURANCE - LIFE	\$	\$
17	INTERNET SERVICE	\$	\$
18	MEDICAL CO-PAYS	\$	\$
19	MORTGAGE/RENT/ROOM AND BOARD	\$	\$
20	PERSONAL NEEDS ALLOWANCE	\$	\$
21	PRESCRIPTIONS	\$	\$
22	REAL ESTATE TAXES	\$	\$
23	TELEPHONE	\$	\$
24	TITHES	\$	\$
25	TRASH	\$	\$
26	TV (CABLE, ETC.)	\$	\$
27	VEHICLE MAINTENANCE (GAS, OIL, ETC.)	\$	\$
28	VEHICLE PAYMENT	\$	\$
29	VEHICLE PAYMENT	\$	\$
30	VEHICLE REGISTRATION/TAXES, ETC.	\$	\$
31	WATER/SEWER	\$	\$
32	OTHER (Specify)	\$	\$
33	OTHER (Specify)	\$	\$
34	OTHER (Specify)	\$	\$
35	OTHER (Specify)	\$	\$
TOTAL		\$	\$

SIGNATURE OF FIDUCIARY	DATE	SIGNATURE OF FIELD EXAMINER	DATE
------------------------	------	-----------------------------	------

INFORMATION FOR FIDUCIARY

(Note: "Beneficiary" means the veteran or other VA beneficiary(ies))

AUTHORITY. Under authority given by Congress in 38 U.S.C. §5502(a)(1), VA recognizes you as fiduciary (payee) to receive and manage the VA funds of the beneficiary(ies) named on page 1 of this agreement. This agreement supersedes any existing VA fiduciary arrangement involving the beneficiary.

RESTRICTED USE OF VA FUNDS. The VA-derived funds you receive under this agreement are not for your personal use. You will receive these funds as a federal fiduciary, which means that you use the funds exclusively for the beneficiary and his or her VA-recognized dependents, if any, and as specifically authorized by VA. You may not mix the beneficiary's funds with your own personal funds.

AUTHORIZED INVESTMENTS FOR SURPLUS VA FUNDS. A legal custodian may only place VA funds not needed by the beneficiary in specific investments. These funds may be placed in U.S. savings bonds or in interest or dividend-paying accounts in State or Federally insured institutions, whichever is to the beneficiary's advantage. Excess funds in a checking account should be placed in a higher earning account; for example, a savings account. Legal custodians may also use a beneficiary's surplus VA funds for purchase of a pre-need burial plan or burial insurance on behalf of the beneficiary.

REGISTRATION OF ACCOUNTS AND INVESTMENTS. Fund accounts must be set up to show proper ownership as follows: "(Beneficiary's Name), by (Your Name), Federal fiduciary. Savings bonds must show proper ownership and existence of the fiduciary relationship, as follows: "(Beneficiary's Name), (Social Security No.), under custodianship by designation of the Department of Veterans Affairs." The bonds may not be cashed without VA approval.

ACCOUNTINGS. You must keep complete and accurate records of income received, expenditures, savings and investments. Information on page 1 of this agreement shows whether or not you are required by VA to submit periodic accountings. When accountings are required, you should submit them on the form that VA will give you. Although you may not be required now to submit accountings, VA may require accountings later. If so, VA will inform you.

CERTIFICATES OF BALANCE ON DEPOSIT AND VERIFICATION. When accountings are required and there are beneficiary funds on deposit, you must also submit a VA Form 21-4718a, Certificate of Balance on Deposit and Authorization to Disclose Financial Records. VA will give you that form which also includes an authorization for you to allow VA to verify deposits directly with the financial institution, if necessary.

BOND AND WITHDRAWAL AGREEMENTS. VA will tell you if you must purchase a corporate surety bond to protect the beneficiary's funds or sign a withdrawal agreement to provide additional protection of the beneficiary's VA funds.

COMMISSIONS/FEES. You may not take commissions or fees from the beneficiary's VA funds for your fiduciary services unless specifically authorized by VA.

TAX EXEMPTION AND CLAIMS OF CREDITORS. By Federal law, a beneficiary's VA income may not be taxed. As fiduciary, you must protect the beneficiary's funds from the claims of creditors. A creditor may not legally take the beneficiary's funds from you. Any questions regarding these issues should be addressed to the VA office shown on page 1 of this agreement.

NOTIFICATION OF CHANGES. You must inform VA when the beneficiary leaves your custody or has a change of address. You must also inform VA of any change in the beneficiary's status that may affect entitlement. Examples are hospitalization, employment, imprisonment, marriage, separation, divorce, gain or loss of dependents, and death.

PROTECTION OF THE BENEFICIARY. VA will take any necessary action to protect the interest of the beneficiary including, but not limited to, removing you as payee. VA may take legal action to recover funds from you that have been misused.

QUESTIONS. When you have questions about your responsibilities as payee, please contact the VA office shown on page 1 of this agreement.

 Department of Veterans Affairs		FIDUCIARY AGREEMENT	
<p>RESPONDENT BURDEN: Public reporting burden for this collection of information is estimated to average 1/12 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to VA Clearance Officer (70Y732), 810 Vermont Ave., NW, Washington, DC 20420; and to the Office of Management and Budget, Paperwork Reduction Project (2900-0319), Washington, DC 20503. Do NOT send requests for benefits to these addresses.</p>			
1. ADDRESS OF VA OFFICE (Complete mailing address) Department of Veterans Affairs Box 25126 155 Van Gordon Denver CO 80225			
2. NAME OF VETERAN (First - middle - last) [REDACTED]		3. VA FILE NUMBER [REDACTED]	4. SOCIAL SECURITY NUMBER [REDACTED]
5. NAME(S) OF BENEFICIARY(IES)			
A.		E.	
B.		F.	
C.		G.	
D.		H.	
6. I, THE UNDERSIGNED FIDUCIARY, HEREBY AGREE TO SERVE AS: <input type="checkbox"/> LEGAL CUSTODIAN <input checked="" type="checkbox"/> CUSTODIAN-IN-FACT <input type="checkbox"/> SPOUSE PAYEE (For veterans only) <input type="checkbox"/> INSTITUTIONAL PAYEE (For veterans only)			
<p>and to use all money paid by the Department of Veterans Affairs (VA) for the benefit of the beneficiary(ies) listed above and to invest any surplus funds as noted below or as may later be required by VA. (Note: Institutional payees have no authority to invest VA funds paid through institutional awards.) I agree to furnish, if requested, a corporate surety bond and/or a complete accounting of all funds received by me for the beneficiary(ies).</p> <p>I agree to immediately notify VA at the address shown above if the beneficiary(ies) leaves my custody or if there is any change in the status (e.g., hospitalization, employment, marriage, separation, death) of the beneficiary(ies). I further agree to release the assets remaining under my control at the termination of my trust as directed by VA.</p> <p>Institutional payees agree that reimbursement charges will be fixed at the currently agreed upon rate, as provided below in Item 8D, and that no further lump sum or retroactive charges will be brought against VA benefits.</p> <p>This agreement may be altered upon approval by VA.</p>			
I AGREE TO SAVE THE FOLLOWING AMOUNT IN A PROPERLY REGISTERED ACCOUNT		7A. LUMP SUM AMOUNT \$	7B. MONTHLY AMOUNT \$
		7C. EFFECTIVE DATE	
IF AGREEMENT IS BY AN INSTITUTION COMPLETE ITEMS BA THRU 8D	8A. NAME OF INSTITUTION		8B. AGREED UPON RATE OF REIMBURSEMENT CHARGES
	8C. MONTHLY AMOUNT FOR VETERAN'S PERSONAL USE \$		8D. AMOUNT TO BE ACCUMULATED \$
I CERTIFY THAT if and while I am authorized to take a commission, I am not receiving and will not receive any other form of remuneration or payment in connection with rendering fiduciary services on behalf of the above named beneficiary(ies).			
8A. SIGNATURE OF FIDUCIARY THE COLORADO BANK & TRUST CO. BY <i>[Signature]</i>		8B. SOCIAL SECURITY NUMBER OF FIDUCIARY [REDACTED]	8C. DATE SIGNED 2/14/96
8D. NAME OF FIDUCIARY (Type or print) TRUST OFFICE PRESIDENT		8E. TITLE OF FIDUCIARY <i>Vice President / Trust Officer</i>	

1b



FIDUCIARY AGREEMENT

RESPONDENT BURDEN: VA may not conduct or sponsor, and respondent is not required to respond to this collection of information unless it displays a valid OMB Control Number. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have comments regarding this burden estimate or any other aspect of this collection of information, call 1-800-827-1000 for mailing information on where to send your comments.

1. ADDRESS OF VA OFFICE (complete mailing address) Department of Veterans Affairs/Denver RO
PO Box 25126
Denver, CO 80225

2. NAME OF VETERAN (First - middle - last) [REDACTED] 3. VA FILE NUMBER [REDACTED] 4. SOCIAL SECURITY [REDACTED]

5. NAME(S) OF BENEFICIARY(IES)
A. [REDACTED] E. [REDACTED]
B. [REDACTED] F. [REDACTED]
C. [REDACTED] G. [REDACTED]
D. [REDACTED] H. [REDACTED]

6. I, THE UNDERSIGNED FIDUCIARY, HEREBY AGREE TO SERVE AS:
 LEGAL CUSTODIAN CUSTODIAN-IN-FACT SPOUSE PAYEE (For veterans only) INSTITUTIONAL PAYEES (For veterans only)
and to use all money paid by the Department of Veterans Affairs (VA) for the benefit of the beneficiary(ies) listed above and to invest any surplus funds as noted below or as may later be required by VA. (Note: Institutional payees have no authority to invest VA funds paid through institutional awards.) I agree to furnish, if requested, a corporate surety bond and/or a complete accounting of all funds received by me for the beneficiary(ies).
I agree to immediately notify VA at the address shown above if the beneficiary(ies) leaves my custody or if there is any change in the status (e.g., hospitalization, employment, marriage, separation, death) of the beneficiary(ies). I further agree to release the assets remaining under my control at the termination of my trust as directed by VA.
Institutional payees agree that reimbursement charges will be fixed at the currently agreed upon rate, as provided below in Item 8B, and that no further lump sum or retroactive charges will be brought against VA benefits.
This agreement may be altered upon approval by VA.

I AGREE TO SAVE THE FOLLOWING AMOUNT IN A PROPERLY REGISTERED ACCOUNT 7A. LUMP SUM AMOUNT \$ N/A 7B. MONTHLY AMOUNT \$ 7C. EFFECTIVE DATE 3/19/2001

IF AGREEMENT IS BY AN INSTITUTION COMPLETE ITEMS 8A THRU 8D 8A. NAME OF INSTITUTION N/A 8B. AGREED UPON RATE OF REIMBURSEMENT CHARGES 8C. MONTHLY AMOUNT FOR VETERAN'S PERSONAL USE \$ 8D. AMOUNT TO BE ACCUMULATED. \$

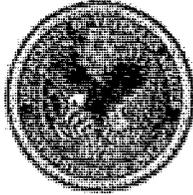
I CERTIFY THAT if and while I am authorized to take a commission, I am not receiving and will not receive and will not receive any other form of remuneration or payment in connection with rendering fiduciary services on behalf of the above named beneficiary(ies).

9A. SIGNATURE OF FIDUCIARY [REDACTED] 9B. SOCIAL SECURITY NUMBER OF FIDUCIARY [REDACTED] 9C. DATE SIGNED 3-19-2001
9D. NAME OF FIDUCIARY (Type or print) [REDACTED] 9E. TITLE OF FIDUCIARY [REDACTED]

NOTE: This agreement supersedes any existing fiduciary involving the beneficiary(ies).

10

Tab 3



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

April 19, 2012

Director (00/21PF)
VA Regional Offices and Centers

In Reply Refer To: 21F1
Fast Letter: 12-13

ATTN: All Veterans Service Center and Fiduciary Hub Personnel

SUBJ: Pre-approval of Single Expenditures by a Fiduciary

Purpose

This letter rescinds Fast Letter 09-42, *Increased Threshold for Pre-approval of Single Expenditures by a Fiduciary*, and clarifies VA policy regarding fiduciary expenditures.

Background

Historically, VA has required fiduciaries to obtain pre-approval for certain single expenditures of beneficiary funds, which were not addressed in the fund usage portion of a VA Form 21-4703, *Fiduciary Agreement*. Prior to the October 19, 2009, issuance of Fast Letter 09-42, all such expenditures that exceeded \$500 required VA approval. The 2009 letter raised the threshold to \$1,000 but otherwise continued the policy of requiring VA approval of expenditures. We have determined that this policy is inconsistent with the role of both VA and fiduciaries in the fiduciary program, and may actually harm beneficiaries to the extent that fiduciaries are unable to assess beneficiary needs and immediately spend available funds to address those needs.

VA has authority to appoint fiduciaries for beneficiaries who cannot manage their financial affairs and to conduct oversight to ensure that fiduciaries meet their obligations to the beneficiaries they serve. Upon appointment, the fiduciary relationship is between the VA-appointed individual or entity and the beneficiary. Fiduciaries hold a position of trust, in which they owe certain responsibilities to the beneficiary, including the obligation to determine which expenditures from beneficiary funds are in the beneficiary's best interests.

2.

Director (00/21PF)

Procedures

Effective immediately, VA-appointed fiduciaries do not need to seek prior VA approval for any single expenditure made on behalf of a beneficiary from the beneficiary's funds, regardless of the amount of the expenditure or whether it is listed on a VA Form 21-4703.

However, legal instruments examiners (LIE) must carefully review expenditures in excess of \$1,000 when auditing a fiduciary's annual accounting and may request receipts or other documentation to verify questionable expenditures. M21-1MR, Part XI, 3.D.17d. If questions remain regarding an expenditure, the LIE must request that a field examiner obtain further verification during a field examination in accordance with M21-1MR, Part XI, 2.D.13d.

The Pension and Fiduciary Service has revised VA Form 21-4703 to remove instructions regarding prior VA approval for expenditures. Field examiners must use the revised form, dated April 2012, for all fiduciary appointments occurring after the date of this letter.

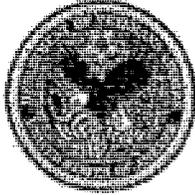
Questions

Submit questions regarding this letter to VAVBAWAS/CO/F&FE.

/s/

David R. McLenachen
Director
Pension and Fiduciary Service

Tab 4



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

October 19, 2009

Director (00/21)
VA Regional Offices and Centers

Fast Letter: 09-42

SUBJ: Increased Threshold for Pre-approval of Single Expenditures By A Fiduciary

Purpose

This letter updates the procedures for management of single expenditures by a fiduciary.

Background

Historically, VA Regional Offices (ROs) have required fiduciaries to obtain pre-approval for a single expenditure in excess of \$500, which had not been addressed by Fund Usage Agreement. This practice is consistent with prior guidance provided by Compensation and Pension Service (C&P Service).

Revised Procedures

Effective immediately, any single expenditure made on behalf of a VA beneficiary by his or her fiduciary exceeding \$1000 will require pre-approval if the expenditure has not been addressed in the Fund Usage Agreement. The request for pre-approval will be addressed by the fiduciary activity with jurisdiction over the Principal Guardianship Folder (PGF). The PGF will be documented by VA Form 21-0820, *Report of General Information* (formerly VA Form 119, *Report of Contact*), or other written method, and will clearly enumerate the item requested and our approval of or objection to the expenditure.

Any instances of fiduciary expenditures exceeding \$1,000 without pre-approval will require contact with the fiduciary to confirm future compliance with our policy. If a fiduciary fails to seek pre-approval subsequent to this confirmation, the VARO should take action to replace the fiduciary, or fully justify the fiduciary's

continued service. There is no tolerance for a third violation of the pre-approval policy, and a successor fiduciary will be sought. Repeated requests for approval of expenditures in excess of \$1000 will be closely monitored, and the location of items purchased must be noted in subsequent field examinations in accordance with M21-1MR, Part XI, 2.D.13d.

Caution must be exercised when reviewing accountings to ensure that all expenditures are appropriate. M21-1MR, Part XI, 3.D.17d, allows requests for receipts or other documentation to verify questionable expenditures, regardless of the amount.

Questions

Please submit questions concerning this fast letter to VAVBAWAS/CO/F&FE.

/s/
Bradley G. Mayes
Director
Compensation & Pension Service

Department of Veterans Affairs (VA) Report

OSC File No. DI-12-4026

Lincoln Fiduciary Hub Field Examiner: File Review and Interview with Beneficiary

1. We need facts about each of the two veterans' cases:

- When were they found incompetent?

Response: Veteran [REDACTED] was rated incompetent from 11/27/1990 and Veteran [REDACTED] was rated incompetent from 08/02/1982

- Who was appointed as their fiduciaries?

Response: Fiduciary for Veteran [REDACTED] is [REDACTED]. Fiduciary for Veteran [REDACTED] is Colorado Bank and Trust.

- Were these fiduciaries suggested by the veterans?

Response: Veteran [REDACTED] stated he did ask for his brother [REDACTED] to be appointed. Veteran [REDACTED] stated he asked for a bank to be appointed. Colorado Bank and Trust is the second bank that was appointed.

- How much do the veterans receive in VA benefits each month?

Response: Veteran [REDACTED] receives \$3504 per month VA compensation. Veteran [REDACTED] receives \$2816 per month VA compensation.

- Are veterans living in a VA domiciliary? Nursing home? Hospitalized at VA expense?

Response: Veteran [REDACTED] lives in an apartment owned by his brother [REDACTED]. The apartment is located next to [REDACTED] house in rural [REDACTED], CO.

Veteran [REDACTED] lives in an assisted living facility, [REDACTED] House Assisted Living, in [REDACTED]. Veteran [REDACTED] is not hospitalized at VA expense.

2. Veteran [REDACTED]:

- Did niece need car to drive veteran to Denver for monthly visits?

Response: Yes. Veteran [REDACTED] does not own a vehicle and niece [REDACTED] didn't own one until the Veteran purchased one for her.

- **Did approval indicate title of vehicle should include only niece's name?**

Response: Approval letter did not specify. Per [REDACTED] VP and Trust Officer, Colorado Bank & Trust, the bank insisted on only having the niece's name on the title to protect the Veteran's estate.

- **What was the basis of the approval – gift or to meet veteran's needs?**

Response: Approval letter does not specify. Per Veteran [REDACTED] it was a gift. Per [REDACTED] it was a gift.

- **Was the vehicle necessary for the niece's employment? Is there an employer statement?**

Response: No, the vehicle was not necessary for the niece's employment. There is an employer statement located in Virtual VA (VVA) from [REDACTED] [REDACTED] dated July 2, 2009 (VVA record, document on line 65, page 7). The statement indicates that public transportation is acceptable for the employee; however, if field staff has their own transportation they could serve more clients. The niece's position was for a Personal Care Provider for a home health agency.

- **During the last field examination conducted on November 2, 2012, Veteran [REDACTED] estate was \$439,004. What was size of Veteran's estate when purchase of jeep was approved?**

Response: Per Court documents the estate was \$447,583.70.

- **The WAFH sent approval in a notification letter dated August 21, 2009, for the purchase of the vehicle for Veteran [REDACTED]'s niece. What did Fritz Memorandum state – please quote.**

Response: "On July 28, 2009 we completed our review of your request for purchase of automobile in the amount of \$25,000. Your request has been approved."

- **Is there a history of requests by Veteran's family accompanied by similar letters?**

Response: Per [REDACTED] the bank has not received any further requests from family members, with the exception of the 2011 request for \$4500 for repairs to the Jeep. [REDACTED] stated the veteran makes frequent requests for himself.

- **Does Fritz Memorandum address any other factors in M21-1MR?**

Response: No other factors were addressed.

- **Provide evidence in Fritz Memorandum to confirm "Mr. Fritz indicated that the vehicle was a one-time purchase to permit the niece to take the veteran to and from appointments."**

Response: The Fritz Memorandum states only that the file was reviewed and the purchase of an automobile in the amount of \$25,000 was approved. The Court Order granting approval does state that authorization is granted for a one-time expenditure of up to \$25,000 for purchase of a vehicle. Per [REDACTED] the vehicle was a gift. The Veteran's niece [REDACTED] did initially provide the Veteran transportation to Denver to visit family members. [REDACTED] stated this only lasted a short period of time before the Veteran's VA Social Worker put a stop to the trips to Denver because the Veteran was becoming out of control due to [REDACTED]

3. Veteran [REDACTED]:

- **The request for the expenditures stated that Veteran [REDACTED] wanted to pay back relatives who cared for him for many years and who had incurred many expenses on the Veteran's behalf. Please quote the request. Is there any detail as to the type of expenses incurred on behalf of the Veteran?**

Response: Please see Attachment #1, Letter dated February 8, 2012, for the quote of the request. [REDACTED] stated that after Veteran [REDACTED] was discharged from the Army in 1968, he has never been able to work due to his [REDACTED]" and he has always depended on family for his needs. [REDACTED] stated Veteran [REDACTED] has lived with him and his spouse [REDACTED] for the past thirteen years and they have provided for all of Veteran [REDACTED]'s needs to include all transportation, meals, laundry, housekeeping, medication management, shopping and dental care.

- **Is there any documentation to support that expenditures were used to reimburse prior expenditures that the fiduciary and his family paid out of their own pocket?**

Response: No, [REDACTED] stated she did keep a ledger for loan requests Veteran [REDACTED] made over the years, but she could not locate it at the time of the interview. [REDACTED] stated Veteran [REDACTED] was married at one time and has three now adult children. [REDACTED] stated Veteran [REDACTED] made his family's lives "a living hell" while they were growing up. Over the last several years the Veteran's adult children would ask Veteran [REDACTED] for financial assistance. As Veteran [REDACTED] did not have any excess money he would

ask [REDACTED] for a loan, usually in the amounts of \$100-\$500 at a time, which [REDACTED] would give Veteran [REDACTED] to give to his children.

- **Is there a record that expenditure request included repayment of a loan?**

Response: Yes, in one instance. A billing statement for dental work provided to Veteran [REDACTED] and paid for by [REDACTED] was provided. The dental work took place between 2006 and 2010 in the amount of \$8,508.

- **Veteran [REDACTED] requested that he be able to tithe to his church, to include a recurring tithe. The expenditure request was reviewed and approved by the WAFH on February 16, 2012. Was consideration given to whether these expenditures were for use and benefit of veteran and without assessment of veteran's future needs or former obligations? Is there any indication in the file as to why the expenditures were approved by VA?**

Response: No indication was provided in the approval letter regarding any consideration given to whether these expenditures were for use and benefit of the Veteran and without assessment of the Veteran's future needs or former obligations. There was no indication in file as to why the expenditures were approved by the VA. The approval letter states only that after review the request was approved.

- **Mr. Krannig stated in a telephone conversation on April 23, 2013, that he was concerned that the fiduciary was the one making the requests for expenditures and not Veteran [REDACTED]. What is VA's finding on this point?**

Response: Both [REDACTED] and Veteran [REDACTED] were interviewed. Both stated that all requests for gifts and expenditures were at the request of Veteran [REDACTED]. Concerning the gifts, Veteran [REDACTED] stated he wanted his family to be able to enjoy the money he gave them while he was still alive.

- **Was the fiduciary given information to remind him of VA prohibition of gifts or caution against distribution of VA funds as gifts?**

Response: Yes, [REDACTED] acknowledged that he received a copy of the Federal Fiduciary Guidelines. [REDACTED] stated that prior to Veteran [REDACTED] receiving the large payment in February 2012 he had never received any guidance from VA. After Veteran [REDACTED] received his payment in February 2012, he had a personal visit from a field examiner who told him one thing. Then he received phone calls from the WAFH in which the person he talked with told him to forget what the field examiner said and do it this way. [REDACTED] stated it is somewhat confusing dealing with VA.

- **Within 30 days of original gift, did the fiduciary give \$1000 to each of family members?**

Response: Yes, [REDACTED] stated he gave all of the \$1,000 gifts (12) at the request of Veteran [REDACTED]. The gifts went to sisters, nieces and nephews. Veteran [REDACTED] confirmed he requested [REDACTED] give the gifts.

- **Veteran [REDACTED] VA estate of \$488,799, as verified during the last accounting approval dated April 3, 2013. What was the amount of his estate in 2012 when the gifts were approved?**

Response: \$631,639.30.

- **Was he receiving VA compensation at the time? If so, did the compensation cover his expenses?**

Response: Yes, Veteran [REDACTED] started receiving VA compensation in lieu of VA pension the same month the 2012 gifts were given which was in March 2012. The Veteran [REDACTED] monthly VA compensation of \$3504 more than covers his listed monthly expenses of \$2924.

- **Were there "repeated gifts to non-dependent family members." Or were there gifts to several family members?**

Response: In 2012, there were twelve gifts of \$1,000, one gift of \$3,000 and five gifts of \$13,000 given to family members. In 2013, four gifts of \$12,000 were given to: [REDACTED], brother and fiduciary, [REDACTED], son; [REDACTED], daughter and [REDACTED], son. Each of these four also had received one of the \$13,000 gifts in 2012.

- **Did the approval of the monthly tithe address issuance of funds as gifts or intent to gift additional funds?**

Response: Approval was for \$20,000 to be given to the Apostolic Church in [REDACTED] and \$350 to be tithed from the monthly VA compensation of \$3504.

- **Did VA authorize the expenses in accordance with the Fiduciary Manual?**

Response: Yes, the Fiduciary Manual, M21-1MR Part XI.3.D.17.g was followed.

- **Is it true that \$382,000 of Veteran's estate is held in MetLife interest-bearing account that is not FDIC-guaranteed?**

Response: Yes, per phone conversation on 06/03/2013 with [REDACTED] Met Life Financial Services. [REDACTED] stated that currently the veteran's funds are in two accounts.

Approximately \$90,000 is in account # [REDACTED] which is a mutual funds account. This account is FDIC insured.

Approximately \$401,000 is in account [REDACTED] which is a Preference Select Account. This account is not FDIC insured but is protected by the Colorado Life and Health Association Protection Act for up to \$250,000. The remainder of the funds is guaranteed by the assets of Met Life. [REDACTED] stated the US Government requires Met Life to maintain a high reserve in order to cover all their accounts. [REDACTED] stated Met Life's current reserves are at \$500 billion dollars. [REDACTED] stated that prior to investing any of the veteran's money he and his lawyer had several conversations with staff at WAFH and he provided all details of the financial plan and it was approved by WAFH before any funds were invested.

Lincoln Hub Field Examiner: Interview with Regional Counsel

1. Veteran [REDACTED]

- **The request for the vehicle purchase was reviewed and approved by the court of jurisdiction; provide the name of the court in Colorado.**

Response: Bent County Colorado District Court, 725 Las Animas, CO 81054.

- **On what date did court approve and on what basis did court approve – did court find it was a gift? Was it to meet the Veteran's needs?**

Response: Court approval was granted by Court Order on 08/03/2009. The Court Order specifies only that a one- time sum of up to \$25,000 is approved for the Veteran's niece [REDACTED] for the purpose of assisting with the purchase of a vehicle. The Motion to Authorize Extraordinary Expenditure for Vehicle Purchase filed with the Court by the Guardian does request up to \$25,000 in a one-time expenditure to assist niece with purchase of a vehicle and states niece is in need of a vehicle to assist the Veteran with transportation needs.

- **If a court order is obtained for a gift, does VA automatically approve the gift? See M21-1MR, § D.17.g.**

Response: Per Thomas Kennedy, OGC Denver: Colorado has adopted the Uniform Veterans Guardianship Act (UVGA) which governs the management of the estate for cases filed under its provisions or conservatorships for veterans receiving VA benefits filed under the Colorado Probate Code. Where the Probate Code and the UVGA conflict on an issue, the UVGA controls, and where the UVGA is silent, one can look to the Probate Code. CRS 28-5-215 of the UVGA provides that a guardian (fiduciary) shall

not apply any portion of the income or the estate for support or maintenance of any person other than the ward except upon petition to and prior order of the court after hearing. A copy of the petition is to be furnished to the appropriate office of the VA and notice of hearing thereon shall be given said office as provided in the case of a hearing on the fiduciary's accounting (at least 15 days prior to the court hearing on the request). Based on the preceding, if the court is petitioned for an expenditure other than for the veteran, the VA is given prior notice with an opportunity to object and the right to a hearing. If the VA (or any other interested party) does not object, the court will sign the order approving the expenditure. Once a court order is signed after appropriate notice giving the VA and any other interested party an opportunity to object, the VA must allow the fiduciary to comply with the court order. The estate is under the jurisdiction of the court once the fiduciary is appointed by the court, and orders of the court must be complied with concerning the estate. To do otherwise would subject the fiduciary to being in contempt of court and subject to removal, jail and/or fine. If the VA has an objection to such an expenditure from receiving proper notice, it's objection should be made before the notice period has ended otherwise if no objection, the order is signed and enforceable by the court.

- **But in this case, it appears that the court order came AFTER VA approval. Is that in fact the case?**

Response: Yes, [REDACTED], Colorado Bank & Trust stated that she always requests approval from VA before petitioning the Court.

- **What court approved the request for payment of vehicle insurance and repairs? Was this before or after VA approved the request?**

Response: Bent County Colorado District Court. Court approval was after VA approved the request. VA approved the request on 05/06/2011 and the Court approved it on 06/01/2011.

Attachment 1: Letter dated February 8, 2012, for the quote of expenses for Veteran [REDACTED].

Attachment 2: Interview Schedule

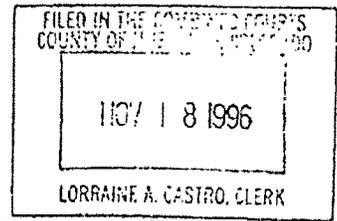
Respectfully submitted,

Jerry White

Field Examiner

Central Area Fid Hub- Lincoln

29 550 074



DISTRICT COURT, HUERFANO COUNTY, STATE OF COLORADO

CASE NO. [REDACTED]

ORDER ACCEPTING RESIGNATION AND APPOINTING OF SUCCESSOR GUARDIAN

IN THE MATTER OF THE ESTATE OF:

[REDACTED]

Uniform Veterans Guardianship Act.

Upon consideration of the petition for appointment of a successor guardian in this estate, the Court finds:

That the provisions of the C.R.S. 28-5-201 et seq. otherwise known as the Uniform Veterans Guardianship Act apply to the administration of this estate.

[REDACTED] is entitled to payment of benefits by and through the Department of Veterans Affairs pursuant to laws of the United States and regulations of the Department of Veterans Affairs and has been determined to be incompetent pursuant to the laws of the United States and regulations of the Department of Veterans Affairs.

That Pueblo Bank and Trust was appointed guardian of this estate on January 23, 1984; and is no longer able to fulfill their Guardianship responsibilities; it is for the best interest of the beneficiary to accept the resignation and appoint a successor guardian.

Colorado Bank and Trust; otherwise capable, has filed their acceptance as successor guardian, and there is no objection to their appointment.

Venue is proper and all interested parties have been given notice of these proceedings as required by statute; Colorado Bank and Trust will protect the interests of the beneficiary, [REDACTED], and will provide proper administration of the affairs of this estate.

WHEREFORE, IT IS ORDERED that the resignation of Pueblo Bank and Trust be accepted and its Letters of Guardianship by this Court are revoked.

IT IS FURTHER ORDERED that Colorado Bank and Trust be appointed successor guardian of this estate and that Letters of Guardianship in succession be issued upon filing an acceptance of appointment and a Bond in the amount of \$ 180,000 with additional Bond to be filed as needed and without further order of this Court in order to comply with the provisions of C.R.S. 28-5-210.

Page 2
Order Accepting Resignation and Appointing Successor Guardian
Case No. [REDACTED]
Re: [REDACTED]

IT IS FURTHER ORDERED that the successor guardian file annual accountings with the Court pursuant to C.R.S. 28-5-211 which shall be due (30) thirty days after the end of the accounting period; the first accounting shall be for the period commencing April 1, 1996 and ending December 1, 1996. Also, the successor guardian shall file an inventory within thirty (30) days from the date hereof.

IT IS SO ORDERED THIS 18th day of November, 1996.

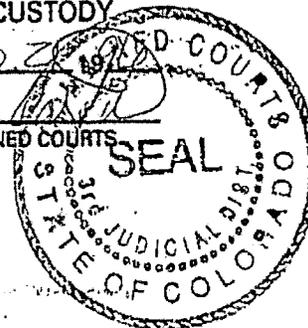
BY THE COURT

Claude W. [Signature]
DISTRICT COURT JUDGE

cc: Thomas R. Kennedy

CERTIFIED TO BE A FULL,
TRUE AND CORRECT COPY OF
ORIGINAL IN MY CUSTODY

DATED November 28, 1996
[Signature]
DEPUTY CLERK COMBINED COURTS



Tab 5



DEPARTMENT OF VETERANS AFFAIRS
EASTERN COLORADO HEALTH CARE SYSTEM

July 20, 2009

Re [REDACTED]

[REDACTED]

The Colorado Bank & Trust
P O Box 499
La Junta, CO 81050

Dear [REDACTED]

I'm writing this letter at the request of [REDACTED], who has indicated on numerous occasions that he would like to purchase a vehicle for his niece, [REDACTED]. The reasons offered are two-fold, 1) she is in need of transportation to pick him up when he goes on family visits to Denver. He goes there on a monthly basis and this will continue indefinitely at this point. 2) She is in need of transportation in order to perform her job duties (Please see enclosed letter from her employer.)

I realize that this is a decision that will have to be made by the Department of Veterans Affairs Regional Office – Fiduciary Section or at least processed through them. Please convey [REDACTED] request to them. Thank you.

Should you have any questions, please do not hesitate to contact me. You can reach me at 719-469-0875.

Sincerely,


John Abdulla, LCSW

CC File

[REDACTED]

VARO – Robert C Krannig

Tab 6

<p>BENT COUNTY, COLORADO, DISTRICT COURT</p> <p>Court Address 725 Bent Avenue Las Animas, CO 81054</p> <p>Telephone (719) 456-1353</p>	<p style="text-align: right;">SALE 2009 JUL 27 10 07 AM</p>
<p>IN THE MATTER OF THE ESTATE OF:</p> <p>██████████,</p> <p>Uniform Veterans Guardianship Act.</p>	<p>▲ COURT USE ONLY ▲</p>
<p>Attorney for Veterans Guardian</p> <p>Phillip F Malouff, Jr MENDENHALL & MALOUFF, R.L L P 301 Colorado Avenue, Suite 300 P O Box 780 La Junta, Colorado 81050 Telephone (719) 384-5482 Fax Number (719) 384-8823 Atty Reg #9076</p>	<p>Case Number ██████████ Div. Ctrm</p>
<p style="text-align: center;">MOTION TO AUTHORIZE EXTRAORDINARY EXPENDITURE FOR VEHICLE PURCHASE</p>	

COMES NOW the Veterans Guardian, COLORADO BANK & TRUST COMPANY, by and through its attorney, Phillip F Malouff, Jr of Mendenhall & Malouff, R L L P , and does hereby move for an Order of this Court authorizing a one time expenditure of up to \$25,000 00 to the Veteran's niece, ██████████ for the purchase of a vehicle

AS GROUNDS THEREFORE, the Veterans Guardian shows as follows

- A. The protected person has approximately \$447,583 70 of funds in the Veteran's Guardianship as of July 23, 2009
- B. The Veteran's current monthly income from the Veterans Administration and from his investments exceeds the Veteran's current monthly needs
- C. The Veteran's needs are currently being met through payment of the Veteran's expenses by the Veterans Guardian and the Veteran's Guardian is unaware of any extraordinary unfulfilled needs of the Veteran
- D. The reserves in the Estate of the Veteran are gradually increasing
- E. The Veteran has requested that his niece receive a one time expenditure of up to \$25,000 00 to assist with the purchase of a vehicle

CERTIFICATE OF MAILING

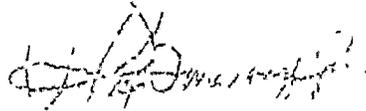
I do hereby certify that I have mailed a true and correct copy of the foregoing MOTION TO AUTHORIZE EXTRAORDINARY EXPENDITURE FOR VEHICLE PURCHASE to the following in the United States Mail, first class, postage prepaid, this 24th day of July, 2009

Colorado Bank & Trust Company
P O Box 499
La Junta, CO 81050
Attn [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Department of Veterans Affairs
P O. Box 25126
Denver, CO 80225
Attn Mr Steve Patterson

WAREA Fiduciary Hub
550 Foothill Drive
P O Box 58086
Salt Lake City, UT 84158



7/15/2009

[REDACTED]

If you care
to speak with
my Niece
(JTS)

[REDACTED]

[REDACTED]

HOUSE PH.

[REDACTED]

CALL

[REDACTED]

[REDACTED]

I spoke to you
at the bank about
my Niece. FIRST
GOD SAID - IF I
get paid A LOT of
my MONEY by the
GOV. & the BANK
WE WILL go to
A better place
MAYBE HEAVEN.
BUT
FIRST I spend some
MONEY.

2009 JUL 27 A 10 07
SALT LAKE CITY
KAPPA

[REDACTED]
my NIECE NEEDS
YOUR HELP. WILL
YOU LET ME
SUPPORT HER +

TRINITY.

THIS WOULD BE
THE GODLY THING
TO DO.

YOU WOULD HELP
HELP YOUR FAMILY
IF THEY WERE IN
NEED. TALK TO MY
NIECE FOR ME. SHE'LL
TELL YOU HER
PROBLEMS.

[REDACTED]
[REDACTED]

[REDACTED]
I apologize for so
many letters.

I'm trying to get
my NIECE to call
YOU. I NEED for
you + [REDACTED] to
talk. I believe
you will see
the whole picture.

my NIECE IS
passing troubles.
I HOPE YOU LET
ME HELP HER and
HER DAUGHTER.

Tab 7

Ronda Yochum

From: [REDACTED]
To: <ronda@ociobank.com>
Sent: Tuesday, July 28, 2009 2:24 PM
Subject: [REDACTED] request-Karen

I've approved the request to purchase [REDACTED] piece a car up to the amount of \$25,000. If it goes over \$25,000 because of taxes, registration and the other things you aren't told about until you actually buy the car, let me know so I can adjust the approval letter

Heatherann Rebman
Legal Instrument Examiner
Western Area Fiduciary Hub
Salt Lake City

Office 801-708-7306
Fax 801-708-7371

"The state of mind which enables a man to do work of this kind is akin to that of the religious worshiper or the lover; the daily effort comes from no deliberate attention or program, but straight from the heart." Albert Einstein

215 AUG 3

9-14-09!
PURCHASE OF VEHICLE! COLORADO CHRYSLER JEEP
350 S. HAVANA ST
AURORA, CO
303.341.4050

"PURCHASE IN [REDACTED] NAME ONLY"
~~303-398-5542~~

Tab 8

BENT COUNTY, COLORADO, DISTRICT COURT		*COURT USE ONLY*
Court Address. 725 Bent Avenue Las Animas, CO 81054		
Telephone (719) 456-1353		
IN THE MATTER OF THE ESTATE OF: ██████████		
Uniform Veterans Guardianship Act.		
		Case Number ██████████ Div: Ctrm
ORDER APPROVING EXTRAORDINARY EXPENDITURE FOR VEHICLE PURCHASE		

This matter came on for consideration of the Veteran's Guardian's MOTION TO AUTHORIZE EXTRAORDINARY EXPENDITURE FOR VEHICLE PURCHASE. Notice was provided to the interested parties pursuant to a "Notice of Hearing (Non-Appearance)". No party has filed an objection thereto

IT IS THEREFORE ORDERED that the Veteran's Guardian's is authorized to expend the one-time sum of up to \$25,000.00 to the Veteran's niece, ██████████ from the Veteran's savings for the purpose of assisting with the purchase of a vehicle

This Court retains jurisdiction as provided by law

Done in Open Court this 3rd day of August, 2009, nunc pro tunc August 3, 2009

Michael Schuford

DISTRICT COURT JUDGE

Tab 9

8/1/2009



DEPARTMENT OF VETERANS AFFAIRS
Western Area Fiduciary Hub
PO Box 58086
Salt Lake City, UT 84158-8086

August 21, 2009

In Reply Refer To

COLORADO BANK AND TRUST
UVGA GUARDIAN FOR
[REDACTED]
PO BOX 499
LAJUNTA, CO 81050-0499

[REDACTED]

SEP 16 AM 9 43

Dear COLORADO BANK AND TRUST

On July 28 2009, we completed our review of your request for purchase of automobile in the amount of \$25,000

What Did We Decide?

Your request has been **APPROVED**.

Please keep all receipts and this letter for your records.

Thank you for continuing to serve our VA beneficiary. We appreciate it very much.

If you have any questions, please contact a Legal Instrument Examiner at 801-708-7306

Sincerely,

F Fritz

Franko Fritz
WAFH Manager

Ref 32 16 HOTLINE! CONT# 2009-24209
CONTACT #: ↑
VA016HOTLINE@VA.GOV
ATTN Ref 32!



Tab 10



The Colorado Bank & Trust

May 6, 2011

VIA FACSIMILE (801) 703-7371

WAREA Fiduciary Hub
550 Foothill Drive
PO Box 58086
Salt Lake City UT 84158

RE: Veteran [REDACTED] - VA # [REDACTED]
Requests

Dear Sir or Madam:

Attached please find the correspondence we have received from attorney, Phillip Malouff, and the letters of request [REDACTED] has submitted to him

[REDACTED] would like to petition the court and have a hearing regarding the funds needed. This request includes \$4,500.00 for repairs related to his niece's vehicle.

We would suggest that you contact the social worker, John Abdulla, LCSW, regarding the request. Mr. Abdulla's number is (719) 469-0875.

Please advise to your findings of this matter. Should you have any questions regarding this matter, please do not hesitate to contact me at 719-384-8131

Sincerely,

THE COLORADO BANK & TRUST

Karen K. Kelley
Vice President and Trust Officer

KKK:ry

11 pages faxed

05/06/2011 - 233 / JAMES [REDACTED] APPROVED AS FOLLOWS
\$4,500.00 FOR AUTO REPAIRS. PAY DIRECTLY TO REPAIR FACILITY. \$1,370.00
FOR FURNITURE, CLOTHING, & MISCELLANEOUS LISTED ITEMS PER P.O.'S ON FAX TRANSMITTAL

The Colorado Bank & Trust Company
P O Box 499 / Le Junta, Colorado 81050 / Phone (719) 384-8131 / Fax (719) 384-6502
23061 East US Highway 80 / Pueblo, Colorado 81008 / Phone (719) 546-2268 / Fax (719) 644-7153
E-mail: cbt@colobank.com Website: www.colobank.com

KEEP COPIES OF ALL RECEIPTS/INVOICES FOR ACCOUNTING RECORDS

Attorney
(10)

MAY-06-2011 FRI 12:53 PM Colorado Bank & Trust

FAX NO. 719 384 6502

P. 02

MENDENHALL & MALOUFF, R.L.L.P.

ATTORNEYS AT LAW

COVER MENDENHALL (1918-1982)
H. BARTON MENDENHALL
PHILLIP F. MALOUFF, JR.

301 COLORADO AVENUE, SUITE 100
P.O. BOX 780
LA JUNTA, COLORADO 81050
Telephone 719-384-5432
Telecopier 719-384-8823

May 5, 2011



Re: Colorado Bank & Trust Company

Dear Aaron:

Thank you for sending me all of the information concerning your request. Due to the size of the request, the Bank will have to ask the Veterans Administration.

It is going to take approximately 30 days to get that request put in place. In the meantime, your requests are going to have to be put on "hold" temporarily.

If you have questions or concerns, I would encourage you to MAKE AN APPOINTMENT TO SEE ME.

Yours very truly,

MENDENHALL & MALOUFF, R.L.L.P.

Phillip F. Malouff, Jr.
La Junta Office

PFM.kt

cc: Karen Kelley, Colorado Bank & Trust Company

-SIR-

This is the LIST I
NEED for LIVING purposes.
STEREO cabinet \$200
DESK \$175
speakers \$250
total = \$625

6 posters 10x6 \$75
stroke Light 50to \$70
creases in pants 25
plastic coating 25
\$195

7 turtleneck shirts \$350
Boots 100
POLICE FOUNDATION 50
games 50

THIS IS	625	\$550
my personal	195	
NEEDS	550	
	\$1,370	

 JEEP approx
\$4,500

I want to ask the VA
if I can help my Family
when needed!

PLEASE

I ALSO would like to
ask the VA, can I get
small Lump sums when
I start falling behind
financially
for NEEDS costing up
to \$500 to \$1,000.

THANK YOU
GOD BLESS
A-MEN

JESUS

[REDACTED]
This is [REDACTED]

I couldn't leave you
being without word.

I don't remember being in
trouble. I know & remember
I haven't been in JAIL —
there in DEN. I think
WE'LL get back our BOND
money if I make it
thru this.

Try not to let this mess
with your peace of mind.

REMEMBER
WE HAVE OUR FATHER - GOD -
A-MEN

MR.

[REDACTED]
my NEECE [REDACTED] gave
me this - [REDACTED] -

These PEOPLE are the
ones working on [REDACTED]
JEEP

company

MAACO

COLLISION repair &
Auto painting - ask for
[REDACTED] - 303-367-9199

[REDACTED]
[REDACTED]
NEICE

- SIRS -

GOD wants a grant of \$10,000 for someone special in HES LIFE.

I know you know what + who I'm talking about

GOD promised AMERICA a new START in LIFE PEACE + HEALING SOCIAL HAPPINESS for A forgiven AMERICA.

I was accused falsely by society -

IF AMERICA WOULD have HAD the 10 COMMANDMENTS

as their Law they would have had EVERLASTING LIFE.

FOR the TRANSGRESSION
of the 10 COMMANDMENTS
there is now death for
those law breakers.

The way the RICH
PEOPLES
rule and their greed
in every area of
immediate attention
everything is falling
apart. OUR COUNTRY IS
headed for turmoil.

The AMERICAN GOV.
& The AMERICAN LAW
are the downfall of
this country. !SIR!
admit it - This COUNTRY
is falling apart.

MR: [REDACTED]

THANK YOU FOR paying attention to my behavior

I know what you know. I'm never in trouble with the LAW. (police)

ALL the overnight arrests in Walsenburg were frauds. THANKS

to my STAYS in areas of need it's no exaggeration.

I donate to the police foundation when they call. MR. MALOUFF

can we get some games for these old people. THIS KIND THEY WILL LIKE.

chinese checkers, Yahtzee, dominos, and games so they could compete and win a cash PRIZE.

STEREO Cabin=	\$200
DESK	175
Speakers	250
	632
POSTERS 10+6+TAX	\$75
stroke Light	\$70
creases in DECKIES	25
plastic - posters	25
4 for	\$195
	+TAX
7 turtle necks	APPROX \$250
Boots	APPROX. 100
	\$1300 450

██████████ WILL NEED
\$4500

So to start HER insurance

DEEP	4,200	4,500
INSUR.	\$300	+1,300
		\$5,800

This is my REQUESTS

& I do say! AGAIN!

These OLD PEOPLE need

attention too. to help

them along. LES SIR

Look at this this way

\$50 to the police found. →

FINALLY

what WARRANT

I don't know about no

WARRANT



DEPARTMENT OF VETERANS AFFAIRS
Western Area Fiduciary Hub
PO Box 58086
Salt Lake City, UT 84158-8086

May 6, 2011

In Reply Refer To 341/233/JQ

COLORADO BANK & TRUST
PO BOX 499
LA JUNTA, CO 81050-0499

C [REDACTED]
[REDACTED]

Dear Fiduciary,

On May 6, 2011, we completed our review of your request for approval for "Payment for repairs to niece's automobile" in the amount of \$4,500 00, and "Veteran's personal needs purchases of stereo cabinet, desk, speakers, clothing, and miscellaneous items" in the amount of \$1,370 00

What Did We Decide?

Your request has been **APPROVED for a total of \$5,870.00** Please make payment directly to repair facility for automobile repairs Please make payment directly to vendor for additional items/expenses where possible. Please keep copies of all receipts/invoices for your accounting records

Please keep this letter for your records

Thank you for continuing to serve our VA beneficiary. We appreciate it very much.

If you have any questions, please contact a Legal Instrument Examiner at 801-708-7306.

Sincerely,

F Fritz

Franko Fritz
WAFH Manager

Tab 11



GRANTED

Movant shall serve copies of this ORDER on any pro se parties, pursuant to CRCP 5, and file a certificate of service with the Court within 10 days.

M. Jon Kolowitz
SALT LAKE CITY
M. Jon Kolowitz
District Court Judge

BENT COUNTY, COLORADO, DISTRICT COURT Court Address: 725 Bent Avenue Las Animas, CO 81054 Telephone: (719) 456-1353	RECEIVED #2 ▲COURT USE ONLY▲ Case Number: [REDACTED] Div: Ctrm.
IN THE MATTER OF THE ESTATE OF: [REDACTED] Uniform Veterans Guardianship Act.	
ORDER APPROVING EXTRAORDINARY EXPENDITURES	

This matter came on for consideration of the Veteran's Guardian's **MOTION TO AUTHORIZE EXTRAORDINARY EXPENDITURES**. Notice was provided to the interested parties pursuant to a "Notice of Hearing (Non-Appearance)". No party has filed an objection thereto.

IT IS THEREFORE ORDERED that the Veteran's Guardian's is authorized to expend the one-time sum of up to \$4,500.00 to the Veteran's niece, from the Veteran's savings for the purpose of assisting with the repairs to her vehicle

IT IS THEREFORE ORDERED that the Veteran's Guardian's is authorized to expend the one-time sum of up to \$1,370.00 purchase of miscellaneous personal items for the Veteran.

This Court retains jurisdiction as provided by law.

Done in Open Court this ____ day of June, 2011.

DISTRICT COURT JUDGE

This document constitutes a ruling of the court and should be treated as such.

Court: CO Bent County District Court 16th JD
Judge: M Jon Kolomitz
Alternate Judge: Unassigned
Current Date: Jun 01, 2011
Case Number: [REDACTED]
Case Name: In the matter of: [REDACTED]
Court Authorizer: M Jon Kolomitz

/s/ Judge M Jon Kolomitz

Tab 12

 Department of Veterans Affairs		ADULT BENEFICIARY - FIELD EXAMINATION REQUEST AND REPORT		
FIDUCIARY & FIELD EXAMINATION ACTIVITY DEPARTMENT OF VETERANS AFFAIRS		1. DATE OF REQUEST	2. TYPE OF FIELD EXAM	
TO Western Area Fiduciary Hub PO Box 58086 Salt Lake City, Utah 84158		7/1/2012	IASIA	FBP
		3. SOCIAL SECURITY [REDACTED]	4. VA FILE NUMBER [REDACTED]	
		5. FIPS CODE 8089		
6. TYPE OF FIDUCIARY		7. NAME OF VETERAN (First - middle - last)		
Corp. Court Appointed		10A. NAME, ADDRESS AND TELEPHONE NUMBER OF FIDUCIARY COLO BANK AND TRUST PO BOX 499 301 COLORADO AVE. LA JUNTA CO, 81050 Telephone: (719) 384-8131		
		8. TYPE OF BENEFICIARY Veteran		
		10B. SSN, TIN or EIN OF PAYEE [REDACTED]		
9A. IS BENEFICIARY INSTITUTIONALIZED? <i>(If "YES," complete Item 9B)</i>		9B. DATE ENTERED		
No		[REDACTED]		
ESTATE INFORMATION				AMOUNT
				FROM P. G. F.
				FROM FLD. EXAMINER
11	VALUE OF ESTATE	AMOUNT IN HANDS OF PAYEE AS OF (DATE)		\$ 439003.60
		AMOUNT IN PFOF AT D.P.C. VAMC 0		NONE
		VALUE OF REAL ESTATE		\$ 0.00
		IRREVOCABLE BURIAL TRUST		\$ 0.00
12	TOTAL AMOUNT OF VA AWARD(S)	Compensation		\$ 2769.00
		OTHER (Specify) Unpaid Retro:		\$ 0.00
13	VA DISTRIBUTION OF MONTHLY PAYMENTS	PAYEE <input checked="" type="checkbox"/> DIRECT DEPOSIT		\$ 2769.00
		DEPENDENTS		\$ 0.00
		PFOF		N/A
14	OTHER INCOME	INSTITUTION FOR CARE AND MAINTENANCE (38 U.S.C. 3203b(3))		\$ 0.00
		SOCIAL SECURITY		\$ 1133.00
15	MONTHLY EXPENDITURES	OTHER (Specify) See beneficiary income		\$ 0.00
		BENEFICIARY SUPPORT MONTHLY EXPENSES		\$ 2754.45
		BENEFICIARY INCIDENTALS		\$ 0.00
		BENEFICIARY OTHER (Specify)		\$ 0.00
16	DEPENDENTS OF BENEFICIARY	<input type="checkbox"/> SPOUSE <input type="checkbox"/> MOTHER <input type="checkbox"/> FATHER <input type="checkbox"/> CHILD (REN) (If Applicable, specify no. of children) 0		
		LIVING IN BENEFICIARY'S HOUSEHOLD <input type="checkbox"/> SPOUSE <input type="checkbox"/> MOTHER <input type="checkbox"/> FATHER <input type="checkbox"/> CHILD (REN) 0		
17	PAYEE DESIGNATION None <i>(If "YES" specify)</i>	<input type="checkbox"/> Initial <input type="checkbox"/> Spouse-Payee Confirmed <input type="checkbox"/> Successor <input type="checkbox"/> Certify Payee		18. FIDUCIARY FEE AUTHORIZED (If "YES," specify % and amount) 5 %
		19. VA Forms Completed or Left with Fiduciary		
				21. FINANCIAL ACCOUNT NUMBERS
				A. SAVINGS: N/A
20A. DATE OF NEXT FIELD EXAMINATION				20B. ACCOUNT DUE DATE
11/1/2015 FBP				03/31/2013
				B. CHECKING: [REDACTED]
C. OTHER (Specify) SEE REPORT BELOW				
22. OTHER ACTION REQUIRED (Specify)				
LIE: Instructions for Misc Diary are listed in block 24; Misc Due Date: ;				
VA FORM DEC 2001 21- 4716a	EXISTING STOCK OF VA FORM 21-4716A, SEP 1997, WHICH WILL BE USED. Electronic Exam			Continued on Reverse

23. STATISTICAL TREND ANALYSIS DATA																					
A. <input type="checkbox"/> No ADVERSE CONDITIONS (<i>Unhealthy/Unacceptable Living Conditions</i>)	D. <input type="checkbox"/> No CASE TO BE REFERRED TO DC. ESTIMATED DOLLAR AMOUNT INVOLVED \$																				
B. <input type="checkbox"/> No MISUSE OF FUNDS	E. <input type="checkbox"/> No CASE TO BE REFERRED TO IG. ESTIMATED DOLLAR AMOUNT INVOLVED \$																				
VA \$ OTHER GOVT \$ OTHER/UNIDENTIFIED \$																					
C. <input type="checkbox"/> No POSSIBLE OVERPAYMENT. REFER CASE TO	F. <input type="checkbox"/> No POSSIBLE UNDERPAYMENT. REFER CASE TO																				
24. COMMENTS SUMMARY OF FIELD EXAMINATION REQUEST ACTIONS: ALL ACTIONS ARE SUPPLIED ON THE CONTINUATION SHEET VA FORM 21-4716(a).																					
<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="font-size: x-small;">Incompetency Rating Date:</td><td>08-02-1982</td></tr> <tr><td style="font-size: x-small;">Legal Disability Date (court):</td><td>11-21-1996</td></tr> <tr><td style="font-size: x-small;">Describe Disability & How Verified:</td><td>████████████████████</td></tr> <tr><td style="font-size: x-small;">Court of Jurisdiction:</td><td>HERIFANO COUNTY</td></tr> <tr><td style="font-size: x-small;">Court Appointment Type:</td><td>Corporate</td></tr> <tr><td style="font-size: x-small;">Docket/Case Number:</td><td>██████████</td></tr> <tr><td style="font-size: x-small;">Directions to Address(es):</td><td>Pull Internet Map or Google for directions.</td></tr> <tr><td style="font-size: x-small;">Marital Status:</td><td>Single</td></tr> <tr><td style="font-size: x-small;">Privacy Act Provisions Reviewed?</td><td>Yes If no; explain:</td></tr> </table>				Incompetency Rating Date:	08-02-1982	Legal Disability Date (court):	11-21-1996	Describe Disability & How Verified:	████████████████████	Court of Jurisdiction:	HERIFANO COUNTY	Court Appointment Type:	Corporate	Docket/Case Number:	██████████	Directions to Address(es):	Pull Internet Map or Google for directions.	Marital Status:	Single	Privacy Act Provisions Reviewed?	Yes If no; explain:
Incompetency Rating Date:	08-02-1982																				
Legal Disability Date (court):	11-21-1996																				
Describe Disability & How Verified:	████████████████████																				
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Docket/Case Number:	██████████																				
Directions to Address(es):	Pull Internet Map or Google for directions.																				
Marital Status:	Single																				
Privacy Act Provisions Reviewed?	Yes If no; explain:																				
THIS IS NOT A CONGRESSIONAL CASE.																					
PRIVACY ACT INFORMATION - The information requested during this interview is necessary to determine the needs of the beneficiary and to select or recognize the payee best suited to those needs. The gathering of this information is authorized under 38 USC Chapter 55 and 57. Disclosure of the information is voluntary; however, failure to reply may delay the appointment of a payee or may result in the appointment of a successor payee. Responses may be disclosed outside the VA only if the disclosure is authorized under the Privacy Act including the routine uses identified in VA system of records 37VA27, VA Supervised Fiduciary and Beneficiary Records-VA, published in the Federal Register.																					
25. SIGNATURE OF AUTHORIZED OFFICIAL AND OFFICE			26. DATE OF REPORT																		
ROBERT C. KRANNIG 147 FE, 341			11-02-2012																		

FIELD EXAMINATION REPORT (CONTINUATION OF VA FORM 21-4716(a)).

GENERAL AND CONTACT INFORMATION

ATTACHMENTS:

The following documents are attached to this report:		
<input type="checkbox"/> Fund Usage letter	<input type="checkbox"/> VA Form 21-4703	<input type="checkbox"/> VA Form 21-555
<input type="checkbox"/> VA Form 21-0792	<input type="checkbox"/> VA Form 21-4716(a)	<input type="checkbox"/> VA Form 21-0820
<input type="checkbox"/> Beneficiary Notification Ltr.	<input type="checkbox"/> Commission Ltr. w 509	<input type="checkbox"/> SIA Payee Letter
<input type="checkbox"/> Credit Report	<input type="checkbox"/> VA Form 21-4138	<input type="checkbox"/> Medication Sheet(s)
<input type="checkbox"/> Bank Statement(s)	<input type="checkbox"/> Background	<input checked="" type="checkbox"/> SHARE PRINTS
<input type="checkbox"/> VA Form 21-0520		

OTHER CONTACTS:

Beneficiary	
Date of Interview:	10-25-2012
VA Beneficiary:	[REDACTED]
Beneficiary's Social:	[REDACTED]
How person was contacted:	in person
Where was person interviewed:	Beneficiary's home
Address where interviewed:	[REDACTED] [REDACTED]
Telephone Number of Person:	

Fiduciary	
Date of Interview:	11-01-2012
VA Fiduciary:	COLO BANK AND TRUST
Is the Fiduciary NOK:	No If Yes, Relationship:
How person was contacted:	by telephone
Where was person interviewed:	Office
Address where interviewed:	PO BOX 499 301 COLORADO AVE. LA JUNTA CO 81050
Telephone Number of Person:	[REDACTED] Alt. Phone:

PHYSICAL AND MENTAL CONDITIONS

Physical Description:

Age:	DOB:	Height	Weight	Eye Color	Glasses?	Hair Color	Race
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Teeth (description):		[REDACTED]					
Hearing Aids?		[REDACTED]					
Do they have any features (i.e. scars, birthmarks, or tattoos)?		[REDACTED]					
What are the physical limitations (if any)?		[REDACTED]					

CAPACITY:

Comprehension of amounts of income?	No
Comprehension of sources?	No
Comprehension of the types of expenses?	No
Comprehension of amount of expenses?	No
Does the beneficiary handle money?	No
Capacity to handle VA funds?	The beneficiary has no capacity to handle funds.
Does the Beneficiary Require the services of a fiduciary?	Yes

LIVING ARRANGEMENT:**Exterior and Interior Conditions:**

Type of place where the beneficiary resides:	Assisted Independent Living
Who beneficiary lives (with):	Alone
Beneficiary living arrangement:	R&B/includes Cost of Care
Describe the beneficiary's residence:	THREE STORY FACILITY.
Furnishings:	The place is reasonably furnished.
Were all major purchases verified since last field exam?	No major purchases since last exam.

Unmet Needs:

Are needs of the beneficiary met?	Yes
Are there any adverse conditions regarding the beneficiary?	No

SOCIAL AND INDUSTRIAL ADJUSTMENT:

What does the beneficiary do with their time?	WALK AROUND TOWN, TV, WRITES LETTERS.
Does the beneficiary have family?	Yes
If yes, are they social, and is there a support system in place?	NO
Are they social with other groups?	No
VR&E eligibility:	The beneficiary is not eligible for Vocational Rehabilitation.

When is the last time they worked?	UNKNOWN
Could they be trained to go back to work by VR&E?	No

ASSETS:

Yes

Account 1	
Name of Institution	██████████
Account Type	██████████
Account Number	██████████
Balance and Balance Date	\$439003.6 11-01-2012
Date Verified	11-01-2012
Method of Verification	PHONE CON WITH FID
VA Derived?	Fully derived as verified in SHARE
Properly Titled (Yes/No)	Yes

Does the beneficiary have VA life insurance? : does not

Debt Owed to the VA:

Is there a debt in SHARE?	No
If there is a debt, how much is owed to VA?	\$0.00
Is the debt being repaid by deduction in SHARE?	N/A
If yes, how much per month is being repaid?	\$0.00
Is the Fiduciary Aware of this Debt?	N/A
If no, you must inform the fiduciary of this debt verbally or in writing.	N/A
If the debt is in the system but there is no deduction, did you inform the fiduciary how to contact DMG or ask for a waiver if within 180 days?	N/A

Other comments:

N/A

INCOME:

Beneficiary's Income		Additional Household Income	
VA: Compensation	\$2769.00	\$	
Social Security	\$1133.00	\$	
GRAND TOTAL	\$3902.00		

Verifications:

PHONE CON WITH FID, SHARE PRINTS ATTACHED.

Is the beneficiary's award running?	Yes
-------------------------------------	-----

Medicaid:

Is this a Medicaid liability	is not
Will this affect the VA benefit?	No If yes, you must refer this case to PMC or RO of jurisdiction on VA

FUND USAGE AND NEEDS:

CLOTHING ALLOWANCE	\$50.00	\$50.00	\$
XMAS FUND	\$28.00	\$28.00	\$
FID FEE	\$138.45	\$138.45	\$
ACCT FEE	\$25.00	\$25.00	\$
ATTORNEY FEE COURTS	\$65.00	\$65.00	\$
PERSONAL NEEDS	\$230.00	\$230.00	\$
ROOM & BOARD/ COC	\$2118.00	\$2118.00	\$
PHONE BILL	\$100.00	\$100.00	\$
Totals:	\$2754.45	\$2754.45	\$0.00

A Budget letter is required for all OIA and SIA cases.

Verifications:

PHONE CON WITH FID, SHARE PRINTS ATTACHED.

Instructions to fund usage and reporting to the fiduciary:

Is the fiduciary in agreement as to the approved use of VA funds?	The fiduciary is in agreement as to the use of VA funds.
Has the fiduciary been verbally informed of the authorized expenditures?	The fiduciary has been verbally instructed to the expenses authorized from the use of the VA benefit (with any changes as applicable).
Has the fiduciary been verbally informed of the proper procedure for requesting changes in allowances or unusual expense?	The fiduciary has acknowledged and agreed that any changes to the fund usage agreement and/ or for unusual expenditures must be authorized by the Hub prior to the expenditure and/or change.
Was the fiduciary aware of exactly what is expected with regard to agreements concerning fund use?	The fiduciary is aware exactly what is expected of them regarding VA funds and expenditure, and has already been provided our guidelines and contact number(s) should a request or question that arise at a later time.

Standard of Living:

Does the fund usage allow a standard of living similar to people having a similar income and assets?	YES
------------------------------------------------------------------------------------------------------	-----

Note: Please refer to XI.2.D.13.g for examples of the standard of living if there are any questions.

Disparity Ratio: Income to Expense; Questionable Expenditures, or Misuse of Funds:

Total Monthly Disparity	1147.55
-------------------------	---------

What is done with the surplus?	It is conserved for the future use of the beneficiary.
Is there inappropriate use of VA funds?	NO

Agreement Reached Including Authorized Spending Amounts and Use of Retroactive Payments:
MONTHLY BUDGET APPROVED, CONTINUE COURT APPOINTMENT.

Previous VA Retroactive Funds (Previous IA):

Is this the first FBP from an IA with retroactive benefits?	No If no, the place NA in the next three blocks.
Did the beneficiary receive any retroactive benefits since the last field examination?	No

NON-DEPENDENTS LIVING WITH THE BENFICIARY:

Are there non-dependent(s) living with the beneficiary?	No
---------------------------------------------------------	----

DEPENDENT/NEXT OF KIN INFORMATION:

NEXT OF KIN:

██████████ SISTER, DENVER, CO #UNKNOWN

██████████ NIECE, DENVER, CO #UNKNOWN

SELECTION AND INSTRUCTION OF FIDUCIARY:

Type of Fiduciary	Corp. Court Appointed
Fiduciary's Name	COLO BANK AND TRUST
Mailing Address	PO BOX 499 301 COLORADO AVE. LA JUNTA CO 81050
Physical Address	PO BOX 499 301 COLORADO AVE. LA JUNTA CO 81050
Telephone Number	(719) 384-8131
Best Method of Contact	By telephone
Tax ID or SSN	██████████

Why is this the most practical, economical or efficient method? :

Why is the most practical method for the beneficiary?	This is the least restrictive method of payment making it the most practical, given the beneficiary's current situation, and this practicality best supports VBA policy.
-------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------

How is this the most efficient or effective method?	This appointment and payment type serves the best interest of the beneficiary, and this selection is consistent with VBA policy.
Did the beneficiary make a request to appoint a fiduciary on 21-592 or in VVA (e-PGF or e-Claim File)?	No
Is this person the Guardian, Conservator, individual who handles the finances and/or caretaker?	YES

Credit, Criminal Background and Witness Comments:

Was Credit Pulled?	NO
Justify Why Or Why Not:	NA: This is a FBP case.
Was criminal background completed?	NO: This is a FBP case.
Witness Comments:	NA: This is a FBP case.
Witness Comments:	NA: This is a FBP case.

Fiduciary Qualifications:

Does the amount the beneficiary reports receiving match the most current fund usage agreement? If no, explain:	Yes
Does the beneficiary report that he/she receives disbursements from the fiduciary in a timely manner? If no, explain:	Yes
Does the beneficiary report the fiduciary is responsive to requests made by the beneficiary? If no, explain:	Yes
During the field visit, did the field examiner note any areas to which the Fiduciary could improve? If yes, explain:	No

Commission Justification:

Commission:	5
-------------	---

Justification of fee/continuation of fee:	N/A
Percentage Recommended:	5
Was the 0509 form handed to the beneficiary or fiduciary if the beneficiary did not understand?	YES

VA Derived Estate Protection (5K, 10K and 20K rules must be addressed if applicable):

VA Estate Value	\$439003.6
Do not include SS or other income in this total	

Is a Bond or Withdrawal Agreement Required?	Yes Type: Surety Bond Amount \$450000.00
Accounting:	03/31/2013

Beneficiary's Physical Address:

Beneficiary Physical Address	[REDACTED]
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Misc Diary:

IJE Instructions/Reason:	Please see box 24 on 4716a
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DIARY:

Overall Situation of Beneficiary:	excellent
Future Field Examination:	FBP
How Many Years:	3 year(s)
Diary Date:	11/01/2015
Justification of Diary Date:	Manual Reference: XI.2.E.33.a

FIELD EXAMINER: ROBERT C. KRANNIG

Date of Report: 11-02-2012

Digital Signature: VSDRKRAN

Spell Check & Clear Tables

File Number [REDACTED] Payee [00] Name [REDACTED] C&P Award-VETSNET Historical Payment Information

Last Activity [04/01/2013] Last Microfiche [04/01/2010] Prior Microfiche [01/01/2008]

Payment Data

Select	Type	Amount	Pay Date	Routing Code	Address Line One	Address Line Two	Zip Code	RO	Paid By
<input type="checkbox"/>	Regular	\$3,504.00	04/01/2013	[REDACTED]	404831	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,504.00	03/01/2013	[REDACTED]	404831	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,504.00	02/01/2013	[REDACTED]	404831	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,504.00	12/31/2012	[REDACTED]	404831	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,446.00	11/30/2012	[REDACTED]	404831	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,446.00	11/01/2012	[REDACTED]	404831	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,446.00	10/01/2012	[REDACTED]	404831	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,446.00	08/31/2012	[REDACTED]	404831	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,446.00	08/01/2012	[REDACTED]	404381	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,446.00	06/29/2012	[REDACTED]	404381	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,446.00	06/01/2012	[REDACTED]	404381	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,446.00	05/01/2012	[REDACTED]	404381	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,446.00	03/30/2012	[REDACTED]	404381	checking		339 Denve	Corporate
<input type="checkbox"/>	Irregular - C&P	\$3,446.00	03/01/2012	[REDACTED]	[REDACTED]	[REDACTED]		339 Denve	Corporate
<input type="checkbox"/>	Retroactive - C&	\$631,639.30	02/10/2012	[REDACTED]	[REDACTED]	[REDACTED]		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$1,031.00	02/01/2012	[REDACTED]	[REDACTED]	[REDACTED]		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$1,031.00	12/30/2011	[REDACTED]	[REDACTED]	[REDACTED]		339 Denve	Corporate

Returned Payment Data

Type	Amount	Issue Date	Cancel Date	Check/Trace No	Reason	RO	Paid By
CPL Veteran	\$431.00	04/30/1993	07/05/1994	[REDACTED]	(B) Limited Payability Cancel	390 Hines Finance	BDN

Tab 13



DEPARTMENT OF VETERANS AFFAIRS

Denver Regional Office
155 Van Gordon Street
PO Box 25126
Denver CO 80225

[REDACTED]
VA File Number
[REDACTED]

Represented by:
COLORADO DIVISION OF VETERANS AFFAIRS

Rating Decision
December 20, 2011

INTRODUCTION

The records reflect that you are a veteran of the Vietnam Era. You served in the Army from July 13, 1966 to July 12, 1968. A special review of your file was mandated on December 5, 2011. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

Please note that this decision does not change the fact that you were previously found to be unable to manage your VA funds and your payments will continue to be made as they previously were.

DECISION

1. The denial of [REDACTED] was a clear and unmistakable error. Service connection is granted at 100 percent effective January 15, 1976.
2. Entitlement to special monthly compensation based on aid and attendance criteria being met is granted from February 19, 2008.

Attorney
B

Page 2

3. Basic eligibility to Dependents' Educational Assistance is established from January 15, 1976.

EVIDENCE

- All evidence in the claims file as of April 6, 2011
- Letter from veteran and brother to DVA in Washington DC dated April 12, 2011
- Memorandum from Veterans Benefits Administration signed December 5, 2011

REASONS FOR DECISION

1. Whether the denial of service connection for [REDACTED] was a clear and unmistakable error.

A finding of clear and unmistakable error means that either the correct facts, as they were known at the time, were not considered by the rating board or the statutory or regulatory provisions existing at the time were incorrectly applied. The regulation does not permit reversal based on opinions about how the facts should have been weighted and evaluated, and the benefit of the doubt rule is not for application. Only errors which are undebatable (those about which reasonable minds cannot differ) are subject to reversal based on clear and unmistakable error. In addition, not all alleged errors meet the regulatory definition of clear and unmistakable error. To constitute a valid claim for clear and unmistakable error, the raised errors must clearly and unmistakably warrant an allowance of benefits.

The Rating Decision dated June 24, 1976 contained a clear and unmistakable error in granting non-service connected pension for [REDACTED] instead of granting service connection for this condition effective January 15, 1976. Per the Administrative Review memorandum signed on December 5, 2011 from the Veterans Benefits Administration (BVA) in Washington DC, a clear and unmistakable error was made because the June 24, 1976 decision and all subsequent decisions failed to apply statutory provisions extant at the time and to the undisputed facts of the record. The outcome of the benefits would have manifestly changed if not for such failures. Specifically, the veteran was denied service connection because this condition was stated in the service treatment records to have existed prior to service and all of these decisions failed to take into account the presumption of soundness at entrance and did not place any weight on the medical opinions that the condition did not exist prior to service. The BVA memorandum directed the veteran should receive a total evaluation since January 1976 as the VA found him unemployable, rated his mental health condition at 70 percent and awarded non-service connected pension. To correct this error, service connection for [REDACTED] is granted effective January 15, 1976, the date of receipt of the original claim.

Prior to November 7, 1996, an evaluation of 100 percent was granted for impairment of intellectual functions, orientation, memory and judgment, and lability and shallowness of affect which produces total social and industrial inadaptability.

Page 3

Effective November 7, 1996, a 100 percent evaluation is assigned for evidence of total occupational and social impairment, due to such symptoms as: gross impairment in thought processes or communication; persistent delusions or hallucinations; grossly inappropriate behavior; persistent danger of hurting self or others; intermittent inability to perform activities of daily living (including maintenance of minimal personal hygiene); disorientation to time or place; memory loss for names of close relatives, own occupation, or own name.

2. Entitlement to special monthly compensation based on aid and attendance.

While you were entitled to non-service connected pension for [REDACTED], you were granted entitlement to special monthly pension based on the need for aid and attendance effective February 19, 2008. Since the issue of [REDACTED] has been changed from non-service connected pension to service connected compensation, the entitlement to special monthly pension based on the need for aid and attendance is also changed to special monthly compensation based on the need for aid and attendance effective February 19, 2008.

3. Eligibility to Dependents' Educational Assistance under 38 U.S.C. chapter 35.

Eligibility to Dependents' Educational Assistance is derived from a veteran who was discharged under other than dishonorable conditions; and, has a permanent and total service-connected disability. Basic eligibility to Dependents' Education Assistance is granted as the evidence shows you currently have a total service-connected disability, permanent in nature. The effective date is January 15, 1976, the date you became entitled to the total disability evaluation.

REFERENCES:

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all veteran benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our web site, www.va.gov.

File Help

File Number [REDACTED] Payee 00 Name [REDACTED] C&P Award-VETSNET Historical Payment Information

Last Activity Payment Date 04/01/2013 Last Microfiche 04/01/2010 Prior Microfiche 01/01/2008

Select	Type	Amount	Pay Date	Routing Code	Address Line One	Address Line Two	Zip Code	RO	Paid By
<input type="checkbox"/>	Regular	\$3,504.00	04/01/2013	102100138	404831	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,504.00	03/01/2013	102100138	404831	checking		339 Denve	Corporate
<input type="checkbox"/>	Regular	\$3,504.00	02/01/2013	102100138	404831	checking		339 Denve	Corporate
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<input type="checkbox"/>	Regular	\$1,031.00	12/30/2011		[REDACTED]			339 Denve	Corporate

Returned Payment Data

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CPL Veteran	\$431.00	04/30/1993	07/05/1994	10344524	(B) Limited Payability Cancel	390 Hines Finance	BDN

04/25/2013 11:05 AM Production

Clip Selected Line(s) For Form FL 4-340

Print Screen

New File Number

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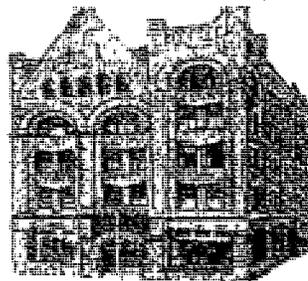
Tab 14

02/08/2012 14:25 FAX 719 846 6369

FNB Wal-Mart Branch

0001/0005

The First National Bank Member FDIC in Trinidad



Wal-Mart Branch • 2921 Toupal Dr.,
Trinidad, CO 81082 • 719/846-6360
1-888/836-4063 • www.fnbtrinidad.com

FAX TRANSMITTAL

TO: George DATE: 2-8-2012
FAX NO: 801-708-7371

THERE ARE A TOAL OF 5 PAGES (INCLUDING COVER PAGE)

OPERATOR: Timi. Manning
COMMENTS:

George, I'm sorry I didnt send a copy of the form sent to me for request I could re-send fax with that form tomorrow

Thank you
CONFIDENTIALITY STATEMENT

The information transmitted in this facsimile message is legally privileged or confidential and intended only for the use of the individual or entity as addressed on this cover sheet. If you are not the intended recipient, be aware that any dissemination, distribution, copy or use of this information is strictly prohibited. If you received this fax in error, please notify us immediately by telephone so that we can arrange for the retrieval of this documents at no cost to you. Thank you.

IF ALL PAGES ARE NOT RECEIVED, PLEASE NOTIFY US AS SOON AS POSSIBLE.
THANK YOU!

2921 Toupal Dr. - P.O. Box 803 - Trinidad, CO 81082 - 719/846-6360 - Fax: 719/846-6369

February 8, 2012

Re: [REDACTED]

Case: [REDACTED]

To whom this may concern:

As [REDACTED] fiduciary this request is on his behalf. I [REDACTED] am responsible for [REDACTED]'s finances, this year [REDACTED] received a large back pay and the following is a request made for a partial amount of those proceeds.

Amount	Beneficiary	Reason
\$13,000.00 [REDACTED] \$13,000.00 [REDACTED] \$13,000.00 [REDACTED] \$13,000.00 [REDACTED] (granddaughter)	[REDACTED], [REDACTED] and [REDACTED] are [REDACTED] Children [REDACTED] is [REDACTED] granddaughter from [REDACTED]	These are [REDACTED] children and grandchild. [REDACTED] would like to help his children with this monetary gift. This will help them with there financial obligations. [REDACTED] is his oldest grandchild she is currently [REDACTED] years of age. This money will also be monitored by her grandmother [REDACTED] and her father [REDACTED]
\$13,000.00 \$13,000.00	[REDACTED] [REDACTED] (care giver)	[REDACTED] has been responsible for [REDACTED]'s needs for the past twenty years. [REDACTED] has lived under [REDACTED] and [REDACTED] supervision for the last twelve years. [REDACTED] performs the following tasks for [REDACTED] - cook, laundry, ironing, shopping, bills, manage all Dr. appointments clean apartment next door to [REDACTED] and Irene, she also monitors his medication. [REDACTED] transports [REDACTED] to and from

		all appointments; he also takes [redacted] shopping for his goodies. [redacted] takes him for rides and walks for exercise. These are just a few tasks they perform for him. They manage any needs that [redacted] requires.
\$3500.00	Meg Goblet Lawyer for Trust Receipt provided	[redacted] and [redacted] charged this expense to there credit card. This payment will be made directly to Bank of America Credit card held in [redacted] and [redacted]s name.
\$6,274.00	Schaffer Bond Cost of Bond Receipt provided	This was also charged on [redacted] and [redacted] credit card this expense will also be paid directly to this account. This amount does not include the cash advance fee for the bond; \$350.00 extra will also be applied to credit card for finance charges and advance fee.
\$4,083.00	[redacted]	This money will be paid back to [redacted] and [redacted] for past loan that [redacted] and [redacted] have taken out for [redacted] to help his children. This is also a reimbursement for a TV purchased for [redacted]
\$20,000.00	Apostolic Church in [redacted]	With a strong belief that this money was a blessing, [redacted] and [redacted] believe that 10 percent should be given back. With in this year checks will be made to the Apostolic Church in the amount of \$20,000.00 for the needs of the congregation. Our intent would be to give this 10 percent over the next five years. The amount that we feel would be appropriate

		for this year would be \$20,000.00. This money will not be all given in one check. This money will be appropriated for the current needs at hand.
\$3,000.00	Nephew	This money would be a gift to his nephew. [REDACTED] is close to [REDACTED] and visits him frequently.

Please review and consider this request. If you have any questions you can contact me at [REDACTED] and [REDACTED].

Thank you,

[REDACTED]

[REDACTED]

Fiduciary
Trustee

February 8, 2012

Monthly Income for [REDACTED] has not yet been determined. When [REDACTED] spoke to [REDACTED], he commented that [REDACTED] could receive \$2,800.00 to \$3,500.00 a month.

Monthly living expenses are as follows:

Gas	\$120.00
Electric	\$87.00
Water	\$17.00
Phone	\$70.00
T.V.	\$60.00
Gas	\$150.00
Exp.(travel)	
Food	\$300.00
Rent	\$300.00
Total	\$1,145.00

This check will be made to [REDACTED] because all bills come in there name.

Caregiver:

[REDACTED] started working for, Public Partnership Colorado. Social Services came to there home and asked what duties they perform for [REDACTED] and broke it down to how much time each task took. By calculating this they came up with how much pay would be appropriate for the duties they perform. [REDACTED] started working for this company in April 2011, looking at both current W-2 form we calculated [REDACTED] makes \$1,032.00 a month and [REDACTED] makes \$248.00 a month. I feel it only appropriate they continue to receive this pay. W-2 can be provided if needed.

Ten percent tithes:

Based on what every income [REDACTED] receives 10% would be request to give to the Church.

Any money remaining from his monthly check will be put in an account with First National Bank in Trinidad. This money will be used for any other needs necessary.

Living Exp.	\$1,145.00
Caregiver	\$1,032.00 [REDACTED] and \$248.00 [REDACTED]
10 Percent to the Church (estimate)	\$350.00
Remainder to checking account	First National Bank in Trinidad

Tab 15



Department of Veterans Affairs
Regional Office
550 Foothill Drive
P.O. Box 581900
Salt Lake City, UT 84158-1900

Feb 16, 2012

[REDACTED]
CUSTODIAN OF: [REDACTED]
[REDACTED]
[REDACTED]

341/FID/gr
[REDACTED]

Recently, we received your letters for expenditures and for the investment of funds for [REDACTED] due to an award of retroactive funds in the amount of \$631,639.30.

Upon review, we have determined that the expenditure requests are approved and are also approving the use of the remaining funds into an FDIC money market fund.

If have any further questions or concerns regarding this letter, you may call us at 1-801-708-7306 or write to us at the address above.

Sincerely,

Franko Fritz

Franko Fritz
Fiduciary HUB Manager

Tab 16



DEPARTMENT OF VETERANS AFFAIRS

Western Area

Fiduciary Hub

PO Box 58086

Salt Lake City, Utah 84158

1-888-407-0144

X

FEDERAL FIDUCIARY GUIDELINES

Important information for You as a Federal Fiduciary

In this document, we explain your responsibility as a Federal Fiduciary including managing money, keeping funds safe, providing and annual accounting (if required), reporting hospitalizations, reporting changes of address, and establishing direct deposit of funds.

Becoming a Federal Fiduciary

You became a Federal Fiduciary when you signed an agreement to receive and manage funds payable by the Department of Veterans Affairs-the VA. You receive these funds on behalf of your ward, a person who is entitled to benefits and payments but a person who VA has determined cannot manage these payments in a responsible manner.

As a Federal Fiduciary, you have important responsibilities to your ward and to VA. These are both described on the agreement you signed, VA Form 21-4703, Fiduciary Agreement. Please read the agreement in its entirety. Also carefully read these Guidelines. Keep the Guidelines and the Fiduciary Agreement for future use.

If you have questions about your responsibilities, call the Western Area Fiduciary Hub at 1-888-407-0144. We are available between 8:00 AM and 4:00 PM Mountain Standard Time (MST), Monday through Friday.

Managing Money

Your primary function as a Federal Fiduciary is to manage the money of your ward.

You must use the money you receive in your ward's name for his/her benefit and for the benefit of his/her dependents (spouse and children). This means you should use the money first to pay reasonable expenses for care and maintenance: shelter, food, clothing, medical care, and transportation. After care and maintenance, you may use remaining money to meet your ward's comfort needs, those things that are not essential but which will improve your ward's quality of life. Whenever possible, VA expects you to save or invest funds which are not needed for immediate care and maintenance.

Attached
10

The Field Examiner will discuss a budget with you of VA funds and provide you with written documentation of this budget. It is important for you to follow this budget. ***If you spend funds not in accordance with the budget without getting prior written approval, you may be expected to repay these funds.***

X

Remember:

- You cannot spend the money on anyone other than your ward and his/her dependents
- This money does not belong to you. You may not use it to pay any of your personal expenses
- You may not make personal loans to yourself or to anyone else
- All of the money that is not immediately spent for care and maintenance should be kept in secured investments (see more information in the next section, "Keeping Funds Safe")
- Never mix your ward's money with anyone else's. If you do, VA will consider it a criminal offense
- Pooled accounts are ***not*** acceptable as accounts as they are not properly registered and assets belonging to the ward cannot be verified. This restriction does not apply to
 - Federal fiduciaries who are Governmental agencies (agency employees are paid directly from Federal or state funds), or
 - Institutional payees (The chief officer of an institution who is authorized the payment of all or part of the VA benefits of a veteran rated incompetent by VA. The veteran must be receiving hospital treatment or institutional, nursing, or domiciliary care in the facility), or
 - Nursing homes who serve as federal fiduciary, ***unless*** an accounting is required

The VA representative will explain to you exactly how the account must be established for your ward.

- Avoid cash payments. Use checks whenever possible. This will allow you to accurately account for payments.

A VA representative will visit you and your ward from time to time. The representative will review income, expenses, and the state of the ward's investments. You must maintain a record showing how money was spent, invested and what income you have managed. In addition, we will require you to submit bank statements of the original account.

We assume you will use VA funds before all other resources to pay for your ward's care and maintenance. Again, the VA representative will establish a budget for use of VA Funds. Call the Western Area Fiduciary Hub at 1-888-407-0144 to request the approval.

X

Keeping Funds Safe: Accounts and Investments

In some circumstances, VA may require you to be bonded. If so, a VA representative will explain this process.

VA has a number of requirements on the types of accounts and investments you can maintain as a Federal Fiduciary. You should:

- Keep cash for routine expenses in a checking account with an insured institution such as a federally-insured bank or credit union.
- Place extra money in secured, interest-earning accounts or invest in secured instruments which pay interest or dividends. Examples include
 - State or federally insured bank and credit union accounts,
 - Certificated of Deposit (CDs)
 - U S savings bonds, and
 - Pre-need burial trust
- Limit access to these accounts and investments to yourself.

Note: VA does not authorize the purchase of real estate specifically for investment purposes.

You should register all accounts to yourself as the Federal Fiduciary for your ward. For example, you should title a bank account as follows:

“(Beneficiary's Name), by (Your Name), Federal Fiduciary”

Your proper title (“Legal Custodian, “Spouse Payee”, etc.) is shown in item #7 on the Fiduciary Agreement, VA Form 21-4703. A financial institution official can help you title the account and investment correctly.

You should title all investments you make on behalf of your ward as follows:

“(Ward's Name), (Ward's Social Security Number) under custodianship by designation of VA”

If you have questions on investments or accounts or how to title them, call the Western Area Fiduciary Hub at 1-888-407-0144 and ask to speak to the Fiduciary Unit.

CAUTION: If VA determines that you have failed in your duties as a fiduciary or have mismanaged your ward's money, you will be removed from this position and will be required to use your own funds to repay the lost money. VA will take whatever legal action is necessary to protect your ward's funds and estate.

X

Providing Annual Accountings

You must keep accurate records of all your ward's money. VA may require you to prepare an annual accounting of income, expenses, and investments for VA's review. If so, a VA representative will tell you that you are required to do so and will provide the necessary forms.

Usually VA will tell you a year in advance if you are required to prepare an accounting. Where VA believes there may be mismanagement or abuse of funds, VA may require an accounting from you with no advance notice.

On the accounting, all financial institutions must certify the ward's account balance(s) as of the last day of the accounting period. You must provide evidence of the value of investments such as savings bonds and Treasury notes as of the end of the account period.

Your failure to file an accounting when required will be considered evidence of fraud and misuse of funds. VA will take legal action against you, if necessary, to recover the funds.

We recommend

- Never deal in cash
- Write checks for all money paid out. Canceled checks are a good record of how you spend your ward's money.
- Do not give a debit card or other type of bank card for the account(s) to your ward. If you want to establish a special account for the ward for a small amount of monthly spending money, get approval from the VA Fiduciary Unit first.
- Keep all receipts for at least two years.

Reporting Hospitalizations

If the ward is hospitalized for more than 3 days, you must notify the local VA Regional Office immediately. You will need to provide the date of the hospitalization, address and telephone number of hospital, and the medical condition for which the ward is receiving treatment.

Changing Your Address or Telephone Number

If you are your ward has a change of address or telephone number, *call VA immediately at 1-888-407-0144*

Important: You must notify us at the phone number above. Notifying the VA Medical Center alone will not provide us with the new address

Special Instructions for a New Address: When you call, give the new mailing address. If it is a Post Office box, please also give the street number, street name, apartment number, and town/city. (A VA representative is required to visit you and your ward from time to time so we must know where you or both live, not just where you receive your mail.) If the new residence is isolated or difficult to find, please give a description of how to drive there from the nearest town

X

Establishing Direct Deposit

If you want your ward's VA benefit deposited directly into the fiduciary bank account, call the Western Area Fiduciary Hub at 1-888-407-0144. Have a check from the account with you when you call so you can give the bank routing number and the account number.

Appointing a Replacement Fiduciary

If for any reason you can not serve any longer as the Federal Fiduciary, notify the Western Area Fiduciary Hub immediately at 1-888-407-0144. Continue to hold the ward's money and pay expenses until VA tells you in writing to transfer funds to the new Fiduciary. *You are not relieved of the responsibility of managing the ward's funds until you have been notified in writing by the VA that you have been replaced.*

Questions?

If you have questions about your duties and responsibilities as a Federal Fiduciary, please call the Western Area Fiduciary Hub or write to us at

Western Area Fiduciary Hub
PO Box 58086
Salt Lake City, Utah 84158

KEEP THIS DOCUMENT FOR REFERENCE!

Tab 17

99

Department of **Memorandum**
Veterans Affairs

Date **SEPTEMBER 30, 2009**
From **WAREA FIDUCIARY HUB MANAGER**
Sub **MISUSE ALLEGATION/INVESTIGATION WPC 570**
To **PRINCIPAL GUARDIANSHIP FOLDER**

Reference:

CH. [REDACTED] VETERAN/BENEFICIARY: [REDACTED]

PAYEE: COLORADO BANK AND TRUST

Allegation:

Western Area Fiduciary HUB authorized the gifting of VA funds for the purchase of an auto for the Veterans niece, in the amount of \$25,000.00. Field Exam conducted by Field Examiner Robert Krannig on 09-11-2009 informed the VAOIG Hotline the Fiduciary HUB approved an expense of VA Funds for the purchase of an automobile for the Veteran's niece.

FACTS:

Colorado Bank and Trust is the Court appointed Guardian of the Veteran, VA recognizes CB&T as the Court appointed Guardian

- 1 July 20, 2009 correspondence to CB&T from LCSW John Abdulla discussing the request from the Veteran. The LCSW makes no decision either for or against the request
- 2 July 24, 2009, CB&T sends correspondence to the WAFHUB, Denver Regional Counsel (Attn. Steve Patterson, ESQ.) requesting authorization for the purchase of an automobile for the Veterans niece to assist the Veteran by taking the Veteran to and from appointments. Request is in the form of motion to the Court to authorize a one-time expenditure of \$25,000.
3. At the time of the motion the Veterans Total Estate consists of \$447,583.70., approximately \$437,000.00 is VA Estate.
- 4 July 28, 2009 Western Area Fiduciary HUB authorizes the purchase of the Vehicle for the Veterans niece in the amount of \$25,000.00, send an email to CB&T Rhonda Yokum.
5. August 3, 2009, Court reviews the motion, sees no objection either from the Denver Regional Counsel and or Western Area Fiduciary HUB and approves the one-time \$25,000 purchase
- 6 August 21, 2009, WAFHUB sends a formal letter to CB&T approving the transaction
7. 08-27-2009, Vehicle transfer of Title completed in the name of the niece.
8. 09-14-2009 Field Examiner Robert Krannig sends notice to VAOIG hotline

Recommendation:

- 1 No further action necessary
- 2 Approval channels were clearly followed by CB&T and Western Area Fiduciary HUB.
3. Denver Regional Counsel was notified and on the Service Mailing list and had no objections to the request.
4. Prior approval was requested and completed prior to purchase.
5. The purchase is clearly a benefit to the Veteran
- 6 The Veteran has a large estate and has the financial ability to incur the one-time purchase.
- 7 Review appropriate protocol of VAOIG hotline requests. Suggest the Coaches, Program Manager and Fiduciary HUB Manager review VAOIG hotline requests and how they are handled within the 570-575 misuse allegation steps

Done Approved LIE 09-30-2008

I CONCUR,

FRANKO FRITZ  DATE: 9-30-09
WESTERN AREA FIDUCIARY HUB MANAGER

Tab 18

 Department of Veterans Affairs		ADULT BENEFICIARY - FIELD EXAMINATION REQUEST AND REPORT			
FIDUCIARY & FIELD EXAMINATION ACTIVITY DEPARTMENT OF VETERANS AFFAIRS		1. DATE OF REQUEST		2. TYPE OF FIELD EXAM	
Western Area Fiduciary Hub PO Box 58086 Salt Lake City, Utah 84158		3/1/2012		SIA	IA/SIA
		3. SOCIAL SECURITY		4. VA FILE NUMBER	
		5. FIPS CODE		8071	
6. TYPE OF FIDUCIARY		7. NAME OF VETERAN (First - middle - last)			
Legal Custodian		10A. NAME, ADDRESS AND TELEPHONE NUMBER OF FIDUCIARY			
		COLORADO BANK & TRUS PO BOX499 301 COLORADO AVE LA JUNTA, CO, 81050		Telephone: 719.384.8131	
		8. TYPE OF BENEFICIARY			
Veteran		10B. SSN, TIN or EIN OF PAYEE		10C. NAME (If other than veteran), ADDRESS AND TELEPHONE NUMBER OF BENEFICIARY (If not same as payee)	
		Telephone: [REDACTED]		Telephone: [REDACTED]	
9A. IS BENEFICIARY INSTITUTIONALIZED? (If "YES," complete Item 9B)		9B. DATE ENTERED			
No		[REDACTED]			
ESTATE INFORMATION			AMOUNT		
			FROM P. G. F.	FROM FLD. EXAMINER	
11	VALUE OF ESTATE	AMOUNT IN HANDS OF PAYEE AS OF (DATE) 07/26/2012	\$ 631639.00	\$ 504834	
		AMOUNT IN PFOP AT D.P.C. VAMC 0	NONE	NONE	
		VALUE OF REAL ESTATE	\$ 0.00	\$ 0.00	
		IRREVOCABLE BURIAL TRUST	\$	\$ 0	
12	TOTAL AMOUNT OF VA AWARD(S)	Compensation A&A	\$	\$ 3446.00	
	OTHER (Specify)		\$	\$ 0.00	
13	VA DISTRIBUTION OF MONTHLY PAYMENTS	PAYEE <input type="checkbox"/> DIRECT DEPOSIT	\$	\$ 3446.00	
		DEPENDENTS	\$	\$ 0.00	
		PFOP	N/A	N/A	
		INSTITUTION FOR CARE AND MAINTENANCE (38 U.S.C. 3203b(3))	\$	\$ 0.00	
14	OTHER INCOME	SOCIAL SECURITY	\$ 0.00	\$ unk	
		OTHER (Specify) See beneficiary income	\$	\$ 0.00	
15	MONTHLY EXPENDITURES	BENEFICIARY SUPPORT MONTHLY EXPENSES	\$	\$ 2737.84	
		BENEFICIARY INCIDENTALS	\$	\$ 0.00	
		BENEFICIARY OTHER (Specify)	\$	\$ 0.00	
		DEPENDENT(S) SUPPORT	\$	\$ 0.00	
16	DEPENDENTS OF BENEFICIARY	<input type="checkbox"/> SPOUSE <input type="checkbox"/> MOTHER <input type="checkbox"/> FATHER <input type="checkbox"/> CHILD (REN) (If Applicable, specify no. of children) 0			
		LIVING IN BENEFICIARY'S HOUSEHOLD <input type="checkbox"/> SPOUSE <input type="checkbox"/> MOTHER <input type="checkbox"/> FATHER <input type="checkbox"/> CHILD (REN) 0			
17	PAYEE DESIGNATION No (If "YES" specify)	<input type="checkbox"/> Initial <input type="checkbox"/> Spouse-Payee Confirmed <input checked="" type="checkbox"/> Successor <input checked="" type="checkbox"/> Certify Payee		18. FIDUCIARY FEE AUTHORIZED (If "YES," specify % and amount)	
				Yes 4 %	
19	VA Forms Completed or Left with Fiduciary	21-4703		21. FINANCIAL ACCOUNT NUMBERS	
				A. SAVINGS: N/A	
20A. DATE OF NEXT FIELD EXAMINATION		20B. ACCOUNT DUE DATE		B. CHECKING: [REDACTED]	
7/1/2013 FBP		08/01/2013		C. OTHER (Specify) SEE REPORT BELOW	
22. OTHER ACTION REQUIRED (Specify)					
LIE:					
VA FORM DEC 2001	21- 4716a	EXISTING STOCK OF VA FORM 21-4716a, SEP 1997, WHICH WILL BE USED. <u>Electronic Exam</u>			Continued on Reverse

23. STATISTICAL TREND ANALYSIS DATA															
A. <input type="checkbox"/> No ADVERSE CONDITIONS (<i>Unhealthy/Unacceptable Living Conditions</i>)	D. <input type="checkbox"/> No CASE TO BE REFERRED TO DC. ESTIMATED DOLLAR AMOUNT INVOLVED \$														
B. <input type="checkbox"/> No MISUSE OF FUNDS	E. <input type="checkbox"/> No CASE TO BE REFERRED TO IG. ESTIMATED DOLLAR AMOUNT INVOLVED \$														
VA \$	OTHER GOV'T \$	OTHER/UNIDENTIFIED \$													
C. <input type="checkbox"/> No POSSIBLE OVERPAYMENT. REFER CASE TO	F. <input type="checkbox"/> No POSSIBLE UNDERPAYMENT. REFER CASE TO														
24. COMMENTS SUMMARY OF FIELD EXAMINATION REQUEST ACTIONS: ALL ACTIONS ARE SUPPLIED ON THE CONTINUATION SHEET VA FORM 21-4716(a). <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 35%;">Incompetency Rating Date:</td> <td>[REDACTED]</td> </tr> <tr> <td>Describe Disability & How Verified:</td> <td>[REDACTED]</td> </tr> <tr> <td>Directions to Address(es):</td> <td>Pull Internet Map or Google for directions.</td> </tr> <tr> <td>Marital Status</td> <td>Divorced</td> </tr> <tr> <td>Privacy Act Provisions Reviewed?</td> <td>Yes If no; explain:</td> </tr> <tr> <td>Reason For Successor (if applicable):</td> <td>POSSIBLE MISSUSE</td> </tr> </table> <p>Additional Comments: SEE ATTACHED BANK STATEMENTS SHOWING \$1000.00 DOLLAR GIFTS TO VARIOUS MEMBERS OF THE BENEFICIARIES FAMILY. Also see Virtual VA line 17 for approval by gr (PREVIOUS FIDUCIARY IDENTIFIED gr ON THE VA LETTERS AS [REDACTED]) for fiduciary to gift an approximate value of \$132,083.00 dollars.</p>				Incompetency Rating Date:	[REDACTED]	Describe Disability & How Verified:	[REDACTED]	Directions to Address(es):	Pull Internet Map or Google for directions.	Marital Status	Divorced	Privacy Act Provisions Reviewed?	Yes If no; explain:	Reason For Successor (if applicable):	POSSIBLE MISSUSE
Incompetency Rating Date:	[REDACTED]														
Describe Disability & How Verified:	[REDACTED]														
Directions to Address(es):	Pull Internet Map or Google for directions.														
Marital Status	Divorced														
Privacy Act Provisions Reviewed?	Yes If no; explain:														
Reason For Successor (if applicable):	POSSIBLE MISSUSE														
PRIVACY ACT INFORMATION - The information requested during this interview is necessary to determine the needs of the beneficiary and to select or recognize the payee best suited to those needs. The gathering of this information is authorized under 38 USC Chapter 55 and 57. Disclosure of the information is voluntary; however, failure to reply may delay the appointment of a payee or may result in the appoint of a successor payee. Responses may be disclosed outside the VA only if the disclosure is authorized under the Privacy Act including the routine uses identified in VA system of records 37VA27, VA Supervised Fiduciary and Beneficiary Records-VA, published in the Federal Register.															
25. SIGNATURE OF AUTHORIZED OFFICIAL AND OFFICE		26. DATE OF REPORT													
ROBERT C. KRANNIG 147 FE, 341		07-27-2012													

FIELD EXAMINATION REPORT (CONTINUATION OF VA FORM 21-4716(a)).

GENERAL AND CONTACT INFORMATION

ATTACHMENTS:

The following documents are attached to this report:		
<input checked="" type="checkbox"/> Funds Usage letter	<input checked="" type="checkbox"/> VA Form 21-4703	<input checked="" type="checkbox"/> VA Form 21-555
<input checked="" type="checkbox"/> VA Form 21-0520	<input checked="" type="checkbox"/> VA Form 21-4716(a)	<input checked="" type="checkbox"/> VAR DOC'S from VVA
<input checked="" type="checkbox"/> Beneficiary Notification Ltr.	<input checked="" type="checkbox"/> Commission Ltr. w 509	<input checked="" type="checkbox"/> SIA Payee Letter
<input checked="" type="checkbox"/> SHARE PRINTS	<input checked="" type="checkbox"/> FIXED ANNUITY	<input checked="" type="checkbox"/> VAR DOC'S from VVA
<input checked="" type="checkbox"/> Bank Statement(s)	<input checked="" type="checkbox"/> EMAILS FROM HUB	<input checked="" type="checkbox"/> VAR DOC'S from VVA

Beneficiary	
Date of Interview:	07-18-2012
VA Beneficiary:	[REDACTED]
Beneficiary's Social:	[REDACTED]
How person was contacted:	in person
Where was person interviewed:	Beneficiary's home
Address of person:	[REDACTED] [REDACTED]
Telephone Number of Person:	[REDACTED]

Fiduciary	
Date of Interview:	07-19-2012
VA Fiduciary:	COLORADO BANK & TRUS
Is the Fiduciary NOK:	If Yes, Relationship:
How person was contacted:	in person
Where was person interviewed:	Fiduciary's office
Address of person:	BRANCH OFF HYW 50 PUEBLO CO 81015
Telephone Number of Person:	719.384.8131 Alt. Phone:

OTHER CONTACTS:

Additional Contacts:

[REDACTED] MISUSE OF FUNDS (GIFTS)

[REDACTED] UNK; RELATIVE AT MEETING

[REDACTED] RELATIVE AT MEETING

PHYSICAL AND MENTAL CONDITIONS

Physical Description:

Age:	DOB:	Height:	Weight:	Eye Color:	Glasses?	Hair/Color:	Race:
[REDACTED]	[REDACTED]						

Teeth (description):	[REDACTED]
Hearing Aids?	No
Do they have any features (i.e. scars, birthmarks, or tattoos)?	NONE
What are the physical limitations (if any)?	NONE

Medical:

The beneficiary receives medical care from:	VA
The beneficiary receives medications from:	VA
Is the beneficiary independent with medications?	No
If no, how are the medication(s) administered?	[REDACTED]
How many times have they been in hospital over the last year?	NONE
What kind of substance abuse issues (if any)?	None
Continence:	The beneficiary is not incontinent.
Ambulation:	The beneficiary does not need an assistive device to ambulate.
In your opinion, the beneficiary's condition likely to:	Remain Static
Does the beneficiary confuse easily?	Yes
What was the coherence of the beneficiary?	The beneficiary spoke coherently.
Beneficiary is oriented to:	<input checked="" type="checkbox"/> Person <input checked="" type="checkbox"/> Place <input type="checkbox"/> Events <input checked="" type="checkbox"/> Time <input type="checkbox"/> None
What questions did you ask to assess orientation?	ALL THE ABOVE
What was their reaction to your questions (if any)?	HE WAS CALM AND COLLECTED
Are the beneficiary's VA benefits equal to or in excess of the amount paid a single, 100 percent service-connected veteran.	Yes

Medical Continued:

The beneficiary suffers from: [REDACTED]

The beneficiary takes the following medication(s): [REDACTED]

Observations and General Information During Interview:

The beneficiary HE IS HAPPY AND GLAD [REDACTED]

The beneficiary was dressed in SHIRT AND PANTS The beneficiary was neat and clean and appropriately dressed for the interview.

CAPACITY:

Knowledge of income and expenses:	knows the amount(s) and source(s) of income.
Does the beneficiary handle money?	No

Does the beneficiary understand his/her expenses?	No
Capacity to handle VA funds:	The beneficiary has no capacity to handle funds.
Does the Beneficiary Require the services of a fiduciary?	Yes

LIVING ARRANGEMENT:

Exterior and Interior Conditions:

Type of place where the beneficiary resides:	Apartment
Who beneficiary lives (with):	alone
Beneficiary living arrangement:	R&B/includes Cost of Care
Describe the beneficiary's residence:	APARTMENT ON SECOND FLOOR OF BUILDING ON HIS BROTHERS PROPERTY.
Exterior condition:	It is old but in excellent repair.
Interior condition:	It is old but in excellent repair.
Furnishings:	The place is reasonably furnished.

Unmet Needs:

Are needs of the beneficiary met?	Yes
Are there any adverse conditions regarding the beneficiary?	No

SOCIAL AND INDUSTRIAL ADJUSTMENT:

What does the beneficiary do with their time?	TV, AND WALKS AROUND THE PROPERTY.
Does the beneficiary have family?	Yes
If yes, are they social, and is there a support system in place?	YES
Are they social with other groups?	No
VR&E eligibility:	The beneficiary is not eligible for Vocational Rehabilitation.
When is the last time they worked?	US. ARMY
Could they be trained to go back to work by VR&E?	No

ASSETS:

Yes

Account 1	
Name of Institution	██████████
Account Type	██████████
Account Number	██████████
Balance and Balance Date	504834
Date Verified	07-19-2012

Method of Verification	SEE MANY ATTACHMENTS FROM PREVIOUS FIDUCIARY
VA Derived?	Fully derived
Properly Titled (Yes/No)	Yes

The beneficiary does not have VA life insurance.

Debt Owed to the VA:

Is there a debt in SHARE?	No
If there is a debt, how much is owed to VA?	\$0.00
Is the debt being repaid by deduction in SHARE?	N/A
If yes, how much per month is being repaid?	\$0.00
Is the Fiduciary Aware of this Debt?	N/A
If no, you must inform the fiduciary of this debt verbally or in writing.	N/A
If the debt is in the system but there is no deduction, did you inform the fiduciary how to contact DMC or ask for a waiver if within 180days?	N/A

INCOME:

Beneficiary's Income		Additional Household Income	
VA: Compensation	\$3446.00	\$	
Social Security	Sunknown	\$	
SUB TOTAL	\$3446.00	\$0.00	
GRAND TOTAL	\$3446.00		

Verifications:

SHARE PRINT ATTACHED. FIDUCIARY AND BENEFICIARY UNWILLING TO DISCLOSE SOCIAL SECURITY INCOME AND USES THEROF.

If VA fiduciary is not payee for all funds list other payee's	[REDACTED]
---------------------------------------------------------------	------------

Medicaid:

Is this a Medicaid liability	is not
Will this affect the VA benefit?	No If yes, you must refer this case to PMC or RO of jurisdiction on VA

Note: The beneficiary is not in receipt of VA benefits at this time.

FUND USAGE AND NEEDS:

EXPENSE	MONTHLY	FROM VA BENEFITS	BEING PAID
R&B/includes Cost of Care	\$2100.00	\$2100.00	\$
Personal Allowance	\$500.00	\$500.00	\$
Fiduciary Fee (if applicable)	\$137.84	\$137.84	\$
Totals:	\$2737.84	\$2737.84	\$

A Budget letter is required for all OIA and SIA cases.

Verifications:

SEE VARIOUS ATTACHMENTS IN FILE.

Instructions to funds usage and expenditure to the fiduciary:

Has the fiduciary been verbally informed as to the use of VA funds?	The fiduciary has been verbally instructed as to the use of VA funds during the time of the interview.
Has the fiduciary been verbally informed to the expenses authorized for the use of the VA benefit?	The fiduciary has been verbally instructed to the expenses authorized from the use of the VA benefit (with any changes as applicable).
Is the fiduciary aware of what is exactly expected of them with regard to agreements concerning funds usage?	The fiduciary is aware exactly what is expected of them regarding VA funds and expenditure, and has already been provided our guidelines and contact number(s) should a request or question that arise at a later time.
Was the fiduciary verbally informed of the proper procedure for requesting changes in allowance or unusual expenditures?	The fiduciary has acknowledged and agreed that any changes to the funds usage agreement and/ or for unusual expenditures in excess of \$1,000.00 must be authorized by the Hub prior to the expenditure and/or change.

Standard of Living:

Does the funds usage allow a standard of living similar to people having a similar income and assets?	YES
-------------------------------------------------------------------------------------------------------	-----

Note: Please refer to XI.2.D.13.g for examples of the standard of living if there are any questions.

Disparity Ratio: Income to Expense; Questionable Expenditures, or Misuse of Funds:

Total Monthly Disparity	708.16
What is done with the surplus?	It is conserved for the future use of the beneficiary in a properly registered account.
Is there inappropriate use of VA funds?	YES
Who did you refer this to?	WAFH, POSSIBLE MISUSE (GIFTING)

Agreement Reached Including Authorized Spending Amounts and Use of Retroactive Payments:

PROFESSIONAL FIDUCIARY TO BE PUT IN PLACE

NON-DEPENDENT'S LIVING WITH THE BENEFICIARY:

Are there non-dependent(s) living with the beneficiary?	No
---------------------------------------------------------	----

DEPENDENT/NEXT OF KIN INFORMATION:

NEXT OF KIN:

[REDACTED]
[REDACTED]
[REDACTED]

SELECTION AND INSTRUCTION OF FIDUCIARY:

Type of Fiduciary	Legal Custodian
Fiduciary's Name	COLORADO BANK & TRUS
Mailing Address	PO BOX499 LA JUNTA, CO 81050
Physical Address	301 COLORADO AVE LA JUNTA, CO 81050
Telephone Number	7198462808
Best Method of Contact	By telephone
Tax ID or SSN	[REDACTED]

Why This is the Most Practical, Economical Or Efficient Method:

Why is the most practical method for the beneficiary?	This is the least restrictive method of payment making it the most practical, given the beneficiary's current situation, and this practicality best supports VBA policy.
How is this the most efficient or effective method?	This appointment and payment type serves the best interest of the beneficiary, and this selection is consistent with VBA policy.
Did the beneficiary make a request to appoint a fiduciary on 21-592 or in VVA (e-PGF or e-Claim File)?	Yes
Is this person the Guardian, Conservator, individual who handles the finances and/or caretaker?	No
Did you select the individual that was requested?	No
If no, you must justify why not.	[REDACTED] HAS POSSIBLY MISUSED FUNDS BY GIFTING \$1000.00 DOLLARS TO MULTIPLE FAMILY MEMBERS.

If no, was there an eligible caregiver or family member?	No
----------------------------------------------------------	----

Credit, Criminal Background and Witness Comments:

Was Credit Pulled?	No
Justify Why Or Why Not:	I did not pull credit because it is an agency.
Criminal Background:	The fiduciary has not been convicted of any offense which has resulted in one year or greater of imprisonment under state and/or federal jurisdiction(s).
Character Witness:	Contact information regarding character witness(es) is/are listed on page 3 of this report.

Additional Comments:

From: [REDACTED]
Sent: Wednesday, June 06, 2012 12:43 PM
To: Krannig, Robert, VBADENV
Subject: RE: CBI REQUEST

If they are a business, LLC, etc, then its not required. For individual persons, it is required.

[REDACTED]
 Coach, Western Area Fiduciary Hub
 [REDACTED]
 [REDACTED]

Commission Justification:

Commission:	Yes
Justification:	No family member is qualified and/or willing to take this case and no other individual/firm/agency is willing to take this case for less or free.
Percentage Recommended:	4
Was the 0509 form handed to the beneficiary or fiduciary if the beneficiary did not understand?	YES

VA Derived Estate Protection (5K, 10K and 20K rules must be addressed if applicable):

VA Estate Value	\$504834
Do not include SS or other income in this total	

Is a Bond or Withdrawal Agreement Required?	Yes Type: Personal Surety Bond Amount \$550000.00
Accounting:	08/01/2013

If this is a non-accounting case, are the VA derived assets greater than \$5,000.00? (otherwise select NA):	N/A: How did you verify this? SEE ATTACHED DOCUMENTS, CB&T FDIC SELF BONDED.
-------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------

Beneficiary's Physical Address:

Beneficiary Physical Address	[REDACTED]
------------------------------	------------

DIARY:

Overall Situation of Beneficiary:	excellent
Future Field Examination:	FBP
How Many Years:	1 year(s)
Diary Date	07/01/2013
Justification of Diary Date:	Manual Reference: XI.2.E.33.a

07-27-2012: The misuse evidence is as follows:

**IN V. V. A. ON LINE 2:
FIND 21-0820 BY LIE 129 REQUESTING A FIELD EXAM.**

**IN V. V. A. ON LINE 5:
FIND PREVIOUS FIDUCIARIES RESPONSE TO THE REQUEST FOR ACCOUNTING. IT HAS BANK STATEMENTS WITH VA FUNDS ALSO IN IT.**

**IN V. V. A. ON LINE 7:
FIND THE 21-0820 ASKING FOR A FIELD EXAM TO REASSES THE FIDUCIARY AND THE RETRO PAYMENT.**

**IN V. V. A. ON LINE 9:
FIND THE CONFERMATION FROM MET LIFE FOR THE ANNUITY TRANSACTION. LIVING TRUST IS NOT AN APPROVED VEHICLE TO SECURE VA FUNDS.**

**IN V. V. A. ON LINE 10
OF THE BENEFICIARYS RECORD YOU WILL FIND A BROCHERAGE ACCOUNT STATEMENT WITH 12 \$1000.00 DOLLAR EXPENDITURES, The explanation given by the previous fiduciary was that this was a gift to the 12 children, niece's and nephews and their children, "just to help them out."**

**IN V. V. A. ON LINE 15:
FIND THE FAX TRANSMISSION OF BOND FROM MET LIFE.**

**IN V. V. A. ON LINE 16:
FIND AN APPROVAL BY gr FOR THE USE OF FUNDS HOWEVER MONEY MARKET FUNDS ARE NOT SECURED BY FDIC OR EQUIVELENT.**

**IN V. V. A. ON LINE 17:
FIND THE APPROVAL BY gr FOR THE EXPENSES REQUESTED FROM FIDUCIARY WHICH HAD \$3500.00 IN LEGAL FEE'S, AND \$6274.00 FOR THE BOND REQUESTED BY [REDACTED]**

(PREVIOUS FIDUCIARY IDENTIFIED [REDACTED] ON THE VA LETTERS AS [REDACTED]). THE LEGAL FEE'S AND BOND ARE APPROPRIATE EXPENSES FOR THE FIDUCIARY TO BE GRANTED. HOWEVER THERE IS ALSO \$132,083.00 DOLLARS IN GIFT'S CLEARLY LABELED AS SUCH. THIS COULD BE THE LIABILITY OF THE VA TO REPAY THE VETERAN UNDER TITLE 38 U.S.C. SS 6106, AND 6107.

ALSO IN THIS FILE ATTACHMENT FIND THE LIVING TRUST RECIEPT.

SHARE PRINT TO VALIDATE MONTHLY FUNDS AND RETRO RECEIVED.

In the interview [REDACTED] told me that all of the above documentation was coordinated by [REDACTED] in Salt Lake City, UT. He believed that as long as a gift was less than \$1000.01, and since the other gifts of \$13000.00 were approved, then it must be OK to gift \$1000.00 at any time he wants. He understood from a phone call that was on a speaker phone heard by his daughter [REDACTED] and the beneficiaries son [REDACTED] SPEAKING TO [REDACTED] IN SLC 341, WHO TOLD THEM that he did not need to ask permission to use the VA funds if the expense was not OVER \$1000.00 DOLLARS US, he did not know that the requirement to ask permission had been lifted in April 2012. He said to me "IF I HAD KNOWN THAT, I might have given his children more."

I believe this to be misuse by the fiduciary for gifting, but I also believe that [REDACTED] was not authorized to approve the gifts clearly stated in the approved request. (VVA LINE 17, .pdf file attached.)

Fiduciary has been replaced by CB&T at the beneficiary and family's request on 07-19-2012.

Coach will be notified by email that misuse is reported by this report, to start action in accordance with M21-1MR, PART 11, SEC 5.

FIELD EXAMINER: ROBERT C. KRANNIG

Date of Report: 07-26-2012

Digital Signature: VSDRKRAN

Spell Check & Clear Tables

For Administrative Use Only

Update Summary

Pre-filled

X

LIE Summary

Veteran			
Beneficiary			
Vet SSN		Bene SSN	
Territory Code		Dep Count	0 Beneficiary Type

Beneficiary Address	Fiduciary Address	Payee ID	
		Payee Type	
		SDP Date	

Date of incorp		Home Value		Asent Type	Letter # 60
FBP Due		Misc Due		Estate Value	
FBA Due		Acct Due		Value Date	07/26/2012
Last Activity		Dual Payee Num		VA Incompetent	<input checked="" type="checkbox"/>
WPC		WPC Close Date	08/02/201207/27/2012	Court/Legal Disability/Minor	<input type="checkbox"/>
Remarks				Temporary Fid	<input type="checkbox"/>

<input checked="" type="checkbox"/> Rated incompetent	<input type="checkbox"/> Married	<input type="checkbox"/> MRP	<input type="checkbox"/> Waiver of Premium
<input type="checkbox"/> Fee Authorized	<input type="checkbox"/> Dependent Parent	<input checked="" type="checkbox"/> Letter Follow up	<input type="checkbox"/> Dual Payee
<input checked="" type="checkbox"/> Bonded	<input type="checkbox"/> \$90 Medicaid	<input type="checkbox"/> VA Insurance	<input type="checkbox"/> Additional Beneficiaries
<input type="checkbox"/> Withdraw Agreement	<input type="checkbox"/> Spanish	<input checked="" type="checkbox"/> Comp => 100%	<input type="checkbox"/> Vet File Only
LIE Actions			

18a

File Help

Person
 Military
 Claims/ Denials
 Award/ Rating
 PreConvsn Master Rcd

File Nbr [REDACTED] Name [REDACTED]

General Information
 Award Information
 Rating Information
 Additional Rating Decisions
 EVR Information
 Income/Expenses/ Net Worth
 VR&E Information

Mailing Address History

#	Address Type	Address (Click Grid To View Formatted Address)	Effective	Updated By
1	Mailing	[REDACTED]	08/01/2012	08/01/2012,341,VSC TOBRI,SHARE
2	Mailing	[REDACTED]	08/01/2012	08/01/2012,341,VSC TOBRI,SHARE
3	Mailing	[REDACTED]	08/01/2012	08/01/2012,341,VSC TOBRI,SHARE
4	Mailing	[REDACTED]	08/01/2012	08/01/2012,341,VSC TOBRI,SHARE
5	Mailing	COLO BANK TRUST,CUSTODIAN OF, [REDACTED]	08/01/2012	08/01/2012,341,VSC TOBRI,SHARE
6	Mailing	COLO BANK TRUST,CUSTODIAN OF, [REDACTED]	08/01/2012	08/01/2012,341,VSC TOBRI,SHARE
7	Mailing	[REDACTED]	06/19/2012	08/01/2012,341,VSC TOBRI,SHARE
8	Mailing	[REDACTED]	12/20/2011	06/19/2012,341,VSCJANDR341,SH
9	Mailing	[REDACTED]	12/20/2011	06/19/2012,341,VSCJANDR341,SH
10	Mailing	[REDACTED]	12/20/2011	06/19/2012,341,VSCJANDR341,SH
11	BDN Format Mailir	[REDACTED]	10/24/2010	12/20/2011,339,VSDBMART,SHAR

[Return to General Info](#)

04/25/2013 11:23 AM Production

Print

C&P Award-VETSNET

Ready

Exit

Attachment 12

Tab 19



DEPARTMENT OF VETERANS AFFAIRS
Western Area Fiduciary Hub
PO Box 58086
Salt Lake City, Utah 84158

In Reply Refer To
WAREAFIDHUB/341

8/1/2012

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Dear [REDACTED]

Our records indicate that on 8/1/2012, [REDACTED] were contacted by Field Examiner Courtney Andrascik, and was reaffirmed as payee for [REDACTED]. This letter confirms your appointment and the current monthly expenses [REDACTED]. [REDACTED] is entitled to receive \$3446 monthly in VA benefits. The beneficiary's monthly expenses were identified as stated below.

MONTHLY FUND USAGE AND NEEDS

EXPENSE	MONTHLY	FROM VA BENEFIT	BALANCE OWED
Care Giver	\$1280 00	\$1280 00	\$
Gas	\$120 00	\$120 00	\$
Electricity	\$87 00	\$87 00	\$
Water	\$17 00	\$17 00	\$
Phone	\$70 00	\$70 00	\$
Car Fuel	\$150 00	\$150 00	\$
Food	\$300 00	\$300 00	\$
Rent	\$550 00	\$550 00	\$
Tithes	\$350 00	\$350 00	\$
Totals	\$2924	\$2924	\$

RETROACTIVE FUNDS USAGE

\$43163 00 for remaining tithing on retro funds

If you have any questions regarding your responsibilities and the administration of the funds of the beneficiary, please contact Fiduciary Hub staff at 1-888-407-0144. We have enclosed a copy of your fiduciary guidelines as a future reference, which the field examiner explained to you during your visit.

Sincerely yours,

F. Fritz

Franko Fritz
Western Area Fiduciary Hub Manager

Enclosure



Department of Veterans Affairs

ADULT BENEFICIARY - FIELD EXAMINATION REQUEST AND REPORT

FIDUCIARY & FIELD EXAMINATION ACTIVITY DEPARTMENT OF VETERANS AFFAIRS		1. DATE OF REQUEST	2. TYPE OF FIELD EXAM	
TO Western Area Fiduciary Hub PO Box 58086 Salt Lake City, Utah 84158		3/1/2012	<input type="checkbox"/> IASIA	<input type="checkbox"/> FBP
		3. SOCIAL SECURITY	4. VA FILE NUMBER	
		[REDACTED]	C - [REDACTED]	
6. TYPE OF FIDUCIARY		5. FIPS CODE	7. NAME OF VETERAN (First - middle - last)	
Legal Custodian		8071	[REDACTED]	
8. TYPE OF BENEFICIARY		10A. NAME, ADDRESS AND TELEPHONE NUMBER OF FIDUCIARY		
Veteran		[REDACTED] Telephone: [REDACTED]		
9A. IS BENEFICIARY INSTITUTIONALIZED? (If "YES," complete item 9B)		10B. SSN, TIN or EIN OF PAYEE		
No		[REDACTED]		
9B. DATE ENTERED		[REDACTED]		
[REDACTED]		[REDACTED]		
ESTATE INFORMATION			AMOUNT	
			FROM P. G. F.	FROM FLD. EXAMINER
11	VALUE OF ESTATE	AMOUNT IN HANDS OF PAYEE AS OF (DATE) 07/26/2012	\$ 631639.00	\$ 506179.01
		AMOUNT IN PFOP AT D. P. C. V A M C 0	NONE	NONE
		VALUE OF REAL ESTATE	\$ 0.00	\$ 0.00
		IRREVOCABLE BURIAL TRUST	\$	\$ 0.00
12	TOTAL AMOUNT OF VA AWARD(S)	Compensation A&A	\$	\$ 3446.00
	OTHER (Specify)		\$	\$
13	VA DISTRIBUTION OF MONTHLY PAYMENTS	PAYEE <input type="checkbox"/> DIRECT DEPOSIT	\$	\$ 3446.00
		DEPENDENTS	\$	\$ 0.00
		PFOP	N/A	N/A
		INSTITUTION FOR CARE AND MAINTENANCE (38 U.S.C. 3103b(3))	\$	\$ 0.00
14	OTHER INCOME	SOCIAL SECURITY	\$ 0.00	\$ 573.00
	OTHER (Specify) See beneficiary income		\$	\$ 0.00
15	MONTHLY EXPENDITURES	BENEFICIARY SUPPORT MONTHLY EXPENSES	\$	\$ 2737.84
		BENEFICIARY INCIDENTALS	\$	\$ 0.00
		BENEFICIARY OTHER (Specify)	\$	\$ 0.00
		DEPENDENT(S) SUPPORT	\$	\$ 0.00
16	DEPENDENTS OF BENEFICIARY	<input type="checkbox"/> SPOUSE <input type="checkbox"/> MOTHER <input type="checkbox"/> FATHER <input type="checkbox"/> CHILD (REN) (If Applicable, specify no. of children) 0		
	LIVING IN BENEFICIARY'S HOUSEHOLD	<input type="checkbox"/> SPOUSE <input type="checkbox"/> MOTHER <input type="checkbox"/> FATHER <input type="checkbox"/> CHILD (REN) 0		
17	PAYEE DESIGNATION	<input type="checkbox"/> Initial <input type="checkbox"/> Spouse-Payee Confirmed	18. FIDUCIARY FEE AUTHORIZED (If "YES," specify % and amount)	
	None (If "YES" specify)	<input type="checkbox"/> Successor <input type="checkbox"/> Certify Payee	No 0%	
19	VA Forms Completed or Left with Fiduciary	21. FINANCIAL ACCOUNT NUMBERS		
		A. SAVINGS: N/A		
20A. DATE OF NEXT FIELD EXAMINATION		20B. ACCOUNT DUE DATE		B. CHECKING: [REDACTED]
8/1/2015 FBP		02/28/2013		C. OTHER (Specify) SEE REPORT BELOW
22. OTHER ACTION REQUIRED (Specify)				
LIE: ;				
VA FORM DEC 2001	21- 4716a	EXISTING STOCK OF VA FORM 21- 4716A, SEP 1997, WHICH WILL BE USED. <u>Electronic Exam</u>		Continued on Reverse

23. STATISTICAL TREND ANALYSIS DATA			
A. <input type="checkbox"/> No ADVERSE CONDITIONS (<i>Unhealthy/Unacceptable Living Conditions</i>)	D. <input type="checkbox"/> No CASE TO BE REFERRED TO DC. ESTIMATED DOLLAR AMOUNT INVOLVED \$		
B. <input type="checkbox"/> No MISUSE OF FUNDS	E. <input type="checkbox"/> No CASE TO BE REFERRED TO IG. ESTIMATED DOLLAR AMOUNT INVOLVED \$		
VA \$ OTHER GOV'T \$ OTHER/UNIDENTIFIED \$			
C. <input type="checkbox"/> No POSSIBLE OVERPAYMENT. REFER CASE TO	F. <input type="checkbox"/> No POSSIBLE UNDERPAYMENT. REFER CASE TO		
24. COMMENTS			
SUMMARY OF FIELD EXAMINATION REQUEST ACTIONS: ALL ACTIONS ARE SUPPLIED ON THE CONTINUATION SHEET VA FORM 21-4716(a).			
Incompetency Rating Date:	[REDACTED]		
Legal Disability Date (court):	[REDACTED]		
Describe Disability & How Verified:	[REDACTED]		
Court of Jurisdiction:	[REDACTED]		
Court Appointment Type:	[REDACTED]		
Docket/Case Number:	[REDACTED]		
Directions to Address(es):	Pull Internet Map or Google for directions.		
Marital Status	Divorced		
COMMENTS/ WARNINGS:	[REDACTED]		
Privacy Act Provisions Reviewed?	Yes If no; explain:		
Reason For Successor (if applicable):	[REDACTED]		
Other VA File Numbers and Benefits (if applicable):	[REDACTED]		
Additional Comments:			
This is a combined 2 part exam. Robert Krannig met with the beneficiary on 7/18/2012.			
PRIVACY ACT INFORMATION - The information requested during this interview is necessary to determine the needs of the beneficiary and to select or recognize the payee best suited to those needs. The gathering of this information is authorized under 38 USC Chapter 55 and 57. Disclosure of the information is voluntary, however, failure to reply may delay the appointment of a payee or may result in the appointment of a successor payee. Responses may be disclosed outside the VA only if the disclosure is authorized under the Privacy Act including the routine uses identified in VA system of records 37VA27, VA Supervised Fiduciary and Beneficiary Records-VA, published in the Federal Register.			
25. SIGNATURE OF AUTHORIZED OFFICIAL AND OFFICE			26. DATE OF REPORT
Courtney Andrascik 226 FE, 341			8/1/2012

FIELD EXAMINATION REPORT (CONTINUATION OF VA FORM 21-4716(a)).

GENERAL AND CONTACT INFORMATION

ATTACHMENTS:

The following documents are attached to this report:		
<input checked="" type="checkbox"/> Fund Usage letter	<input type="checkbox"/> VA Form 21-4703	<input type="checkbox"/> VA Form 21-555
<input type="checkbox"/> VA Form 21-0792	<input checked="" type="checkbox"/> VA Form 21-4716(a)	<input type="checkbox"/> VA Form 21-0820
<input type="checkbox"/> Beneficiary Notification Ltr.	<input type="checkbox"/> Commission Ltr. w 509	<input type="checkbox"/> SIA Payee Letter
<input type="checkbox"/> Credit Report	<input type="checkbox"/> VA Form 21-4138	<input type="checkbox"/> Medication Sheet(s)
<input type="checkbox"/> Bank Statement(s)	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> VA Form 21-0520		

OTHER CONTACTS:

Beneficiary	
Date of Interview:	07-18-2012
VA Beneficiary:	[REDACTED]
Beneficiary's Social:	[REDACTED]
How person was contacted:	in person
Where was person interviewed:	Beneficiary's home
Address of person:	[REDACTED]
Telephone Number of Person:	[REDACTED]

Fiduciary	
Date of Interview:	8/1/2012
VA Fiduciary:	[REDACTED]
Is the Fiduciary NOK:	Yes If Yes, Relationship: Brother
How person was contacted:	by telephone
Where was person interviewed:	Fiduciary's home
Address of person:	[REDACTED]
Telephone Number of Person:	[REDACTED] Alt. Phone:

Additional Contacts:

[REDACTED]
[REDACTED]
[REDACTED]

PHYSICAL AND MENTAL CONDITIONS

Physical Description:

Age:	DOB:	Height	Weight	Eye Color	Glasses?	Hair Color	Race
████	██████████	████	████	████	████	████	██████████

Teeth (description):	Natural teeth
Hearing Aids?	No
Do they have any features (i.e. scars, birthmarks, or tattoos)?	NONE
What are the physical limitations (if any)?	NONE

Medical:

The beneficiary receives medical care from:	VA
The beneficiary receives medications from:	VA
Is the beneficiary independent with medications?	No
If no, how are the medication(s) administered?	SISTER IN-LAW PROVIDES MEDS
How many times have they been in hospital over the last year?	NONE
What kind of substance abuse issues (if any)?	None
Continence:	The beneficiary is not incontinent.
Ambulation:	The beneficiary does not need an assistive device to ambulate.
In your opinion, the beneficiary's condition likely to:	Remain Static
Does the beneficiary confuse easily?	Yes
What was the coherence of the beneficiary?	The beneficiary spoke coherently.
Beneficiary is oriented to:	<input checked="" type="checkbox"/> Person <input checked="" type="checkbox"/> Place <input type="checkbox"/> Events <input checked="" type="checkbox"/> Time <input type="checkbox"/> None
What questions did you ask to assess orientation?	ALL THE ABOVE
What was their reaction to your questions (if any)?	HE WAS CALM AND COLLECTED
Are the beneficiary's VA benefits equal to or in excess of the amount paid a single, 100 percent service-connected veteran.	Yes

Additional Comments:

Medical Continued:

The beneficiary suffers from: [REDACTED]

The beneficiary takes the following medication(s): [REDACTED]

Observations and General Information During Interview:

The beneficiary HE IS HAPPY AND GLAD TO BE RATED 100%..

The beneficiary was dressed in SHIRT AND PANTS The beneficiary was neat and clean and appropriately dressed for the interview.

CAPACITY:

Comprehension of amounts of income?	knows the amount(s) and source(s) of income.
Comprehension of sources?	
Comprehension of the types of expenses?	No
Comprehension of amount of expenses?	
If yes to any questions above: To what extent?	
Does the beneficiary handle money?	No
If yes, how much and what do they do with the money?	
Capacity to handle VA funds:	The beneficiary has no capacity to handle funds.
Does the Beneficiary Require the services of a fiduciary?	Yes

Additional Comments:

LIVING ARRANGEMENT:

Exterior and Interior Conditions:

Type of place where the beneficiary resides:	Apartment
Who beneficiary lives (with):	alone
Beneficiary living arrangement:	R&B/includes Cost of Care

Describe the beneficiary's residence:	APARTMENT ON SECOND FLOOR OF BUILDING ON HIS BROTHERS PROPERTY.
Furnishings:	The place is reasonably furnished.
Were all major purchases verified since last field exam?	
If yes, is asset in beneficiary's possession?	

Additional Comments Regarding Conditions:

Unmet Needs:

Are needs of the beneficiary met?	Yes
If no, who did you refer this to?	
Are there any adverse conditions regarding the beneficiary?	No
If yes, who did you refer this to?	

SOCIAL AND INDUSTRIAL ADJUSTMENT:

What does the beneficiary do with their time?	TV, AND WALKS AROUND THE PROPERTY.
Does the beneficiary have family?	Yes
If yes, are they social, and is there a support system in place?	YES
Are they social with other groups?	No
If yes, to what extent are they social with other groups?	
VR&E eligibility:	The beneficiary is not eligible for Vocational Rehabilitation.
When is the last time they worked?	US. ARMY
Could they be trained to go back to work by VR&E?	No

Additional Comments:

ASSETS:

Yes

Account 1	
Name of Institution	MetLife

Account Type	Money Market
Account Number	
Balance and Balance Date	\$123195.01 6/30/2012
Date Verified	8/1/2012
Method of Verification	Fiduciary
VA Derived?	Fully derived
Properly Titled (Yes/No)	Yes

Account 2	
Name of Institution	First National Bank of Trinidad
Account Type	Checking
Account Number	
Balance and Balance Date	\$1344.7 7/13/2012
Date Verified	8/1/2012
Method of Verification	Bank Statement/fiduciary
Date Verified	Fully derived
Properly Titled (Yes/No)	Yes

Account 3	
Name of Institution	MetLife
Account Type	Interest Bearing Account
Account Number	
Balance and Balance Date	\$381639.3 2/28/2012
Date Verified	8/1/2012
Method of Verification	Fiduciary
Date Verified	Fully derived
Properly Titled (Yes/No)	No

CERTIFICATE OF DEPOSIT:

DESCRIPTION	BALANCE
Totals:	\$

Vehicles:

Pre-Need Burial:

Description of Plan	N/A
Approx. Value	\$
Balance Owed	\$
% Ownership	%
Co-Owner Name(s) and %	, %
Date Verified	
How Verified	

Withheld Unpaid VA Benefits/Retro:

Source/Description:	N/A
Approx. Amount:	\$
Date Verified:	
Date Expected if known:	
Method of Verification:	

Does the beneficiary have VA life insurance? : does not

VA Insurance:	
---------------	--

Debt Owed to the VA:

Is there a debt in SHARE?	No
If there is a debt, how much is owed to VA?	\$0.00
Is the debt being repaid by deduction in SHARE?	N/A
If yes, how much per month is being repaid?	\$0.00
Is the Fiduciary Aware of this Debt?	N/A
If no, you must inform the fiduciary of this debt verbally or in writing:	N/A
If the debt is in the system but there is no deduction, did you inform the fiduciary how to contact DMC or ask for a waiver if within 180days?	N/A

Other comments:

N/A

INCOME:

Beneficiary's Income		Additional Household Income	
VA: Compensation	\$3446.00	\$	
Social Security	\$573.00	\$	
Other:	\$	\$	
SUB TOTAL	\$4019.00	\$0.00	
GRAND TOTAL	\$4019.00		

Verifications:

SHARE PRINT ATTACHED.

Is the beneficiary's award running?	is not
-------------------------------------	--------

If VA fiduciary is not payee for all	
--------------------------------------	--

funds list other payee's

Medicaid:

Is this a Medicaid liability	is not
Is this a full or partial liability?	
How did you verify this?	
Will this affect the VA benefit?	No If yes, you must refer this case to PMC or RO of jurisdiction on VA

FUND USAGE AND NEEDS:

EXPENSE	MONTHLY	FROM VA BENEFIT	BALANCE OWED
Care Giver	\$1280.00	\$1280.00	\$
Gas	\$120.00	\$120.00	\$
Electricity	\$87.00	\$87.00	\$
Water	\$17.00	\$17.00	\$
phone	\$70.00	\$70.00	\$
Car Fuel	\$150.00	\$150.00	\$
food	\$300.00	\$300.00	\$
rent	\$550.00	\$550.00	\$
Tithes	\$350.00	\$350.00	\$
Totals:	\$2924.00	\$2924.00	\$

A Budget letter is required for all OIA and SIA cases.

Verifications:

Instructions to fund usage and reporting to the fiduciary:

Is the fiduciary in agreement as to the approved use of VA funds?	The fiduciary is in agreement as to the use of VA funds.
Has the fiduciary been verbally informed of the authorized expenditures?	The fiduciary has been verbally instructed to the expenses authorized from the use of the VA benefit (with any changes as applicable).
Has the fiduciary been verbally informed of the proper procedure for requesting changes in allowances or unusual expense?	The fiduciary has acknowledged and agreed that any changes to the fund usage agreement and/ or for unusual expenditures must be authorized by the Hub prior to the expenditure and/or change.
Was the fiduciary aware of exactly what is expected with regard to agreements concerning fund use?	The fiduciary is aware exactly what is expected of them regarding VA funds and expenditure, and has already been provided our guidelines and contact number(s) should a request or question that arise at a later time.

Standard of Living:

Does the fund usage allow a standard of living similar to people having a similar income and assets?	YES
------------------------------------------------------------------------------------------------------	-----

If no, please explain the situation:	
--------------------------------------	--

Note: Please refer to XI.2.D.13.g for examples of the standard of living if there are any questions.

Disparity Ratio: Income to Expense; Questionable Expenditures, or Misuse of Funds:

Total Monthly Disparity	1095
What is done with the surplus?	It is conserved for the future use of the beneficiary in a properly registered account.
Is there inappropriate use of VA funds?	No
Who did you refer this to?	

Agreement Reached Including Authorized Spending Amounts and Use of Retroactive Payments:

\$43163.00 for remaining tithing on retro funds.

Previous VA Retroactive Funds (Previous IA):

Is this the first FBF from an IA with retroactive benefits?	Yes If no, the place NA in the next three blocks.
Did the beneficiary receive any retroactive benefits since the last field examination?	yes
If yes, list the amount and explain disposition:	All expenses paid with retro funds were approved by the VA
Was the account titled properly during IA?	
Corrective action taken by the field examiner (if applicable):	Explained how to properly title account as Payee account.

Additional Comments:

NON-DEPENDENTS LIVING WITH THE BENEFICIARY:

Are there non-dependent(s) living with the beneficiary?	No
Relationship to the beneficiary:	
How do they contribute to the beneficiary's household?	

If they provide non-monetary services, briefly describe what those services are.	
If they provide a share of the household expenses, how much do they contribute per month?	

Additional Comments:

DEPENDENT/NEXT OF KIN INFORMATION:

DEPENDENT(S):

Additional Dependent contacts:

NEXT OF KIN:

Brother: [REDACTED]
[REDACTED]
[REDACTED]

SELECTION AND INSTRUCTION OF FIDUCIARY:

Type of Fiduciary	Legal Custodian
Fiduciary's Name	[REDACTED]
Fiduciary's Date of Birth	[REDACTED]
Mailing Address	[REDACTED] [REDACTED] [REDACTED]
Physical Address	[REDACTED] [REDACTED]
Telephone Number	[REDACTED]
Best Method of Contact	By telephone
Tax ID or SSN	[REDACTED]
Occupation	
Education Level	
Relationship	Brother

Why is this the most practical, economical or efficient method? :

Why is the most practical method for the beneficiary?	This is the least restrictive method of payment making it the most practical, given the beneficiary's current situation, and this practicality best supports VBA policy.
-------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------

How is this the most efficient or effective method?	This appointment and payment type serves the best interest of the beneficiary, and this selection is consistent with VBA policy.
Did the beneficiary make a request to appoint a fiduciary on 21-592 or in VVA (e-PGF or e-Claim File)?	Yes
Is this person the Guardian, Conservator, individual who handles the finances and/or caretaker?	Yes
Did you select the individual that was requested?	Yes
If no, you must justify why not.	
If no, was there an eligible caregiver or family member?	No
Was the caregiver or family member appointed?	
If no, who was the candidate?	
If caregiver or family member was not selected justify why not?	

Credit, Criminal Background and Witness Comments:

Was Credit Pulled?	NO
Justify Why Or Why Not:	NA: This is a FBP case.
Was criminal background completed?	NO: This is a FBP case.
Witness Comments:	NA: This is a FBP case.

Witness Comments:	NA: This is a FBP case.
--------------------------	-------------------------

Fiduciary Qualifications:

Does the amount the beneficiary reports receiving match the most current fund usage agreement? If no, explain:	Yes
Does the beneficiary report that he/she receives disbursements from the fiduciary in a timely manner? If no, explain:	Yes
Does the beneficiary report the fiduciary is responsive to requests made by the beneficiary? If no, explain:	Yes
During the field visit, did the field examiner note any areas to which the fiduciary could improve? If yes, explain:	No

Additional Comments:

Commission Justification:

Commission:	No
Justification of fee/continuation of fee:	
If fee authorized, is the fiduciary receiving remuneration from another source?	
Percentage Recommended:	
Was the 0509 form handed to the beneficiary or fiduciary if the beneficiary did not understand?	

VA Derived Estate Protection (5K, 10K and 20K rules must be addressed if applicable):

VA Estate Value	\$504834
Do not include SS or other income in this total	

Is a Bond or Withdrawal Agreement Required?	Yes Type: Personal Surety Bond Amount \$665000.00 (already in place)
US Savings Bonds:	: If yes, then how much: \$
Accounting:	02/28/2013
If this is a non-accounting case, are the assets greater than \$5,000.00? (otherwise select NA)	: How did you verify this?

Additional Comments:

Explanation of Duties & Responsibilities:

<input type="checkbox"/> 4703	<input checked="" type="checkbox"/> FID Guidelines	<input checked="" type="checkbox"/> Direct Deposit	<input checked="" type="checkbox"/> When to contact FID HUB
<input type="checkbox"/> Hospitalization	<input checked="" type="checkbox"/> Change in status	<input checked="" type="checkbox"/> Entitlement	<input type="checkbox"/> \$90.00 rate
<input type="checkbox"/> EVR	<input type="checkbox"/> Medicaid	<input checked="" type="checkbox"/> Fid Fee	<input type="checkbox"/> Election of Benefits
<input type="checkbox"/> Address Change	<input checked="" type="checkbox"/> Surplus VA funds	<input type="checkbox"/> Report of Death	<input type="checkbox"/> New Fiduciary request
<input type="checkbox"/>	<input checked="" type="checkbox"/> Accountings	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

INFORMATION AFFECTING ENTITLEMENT:

Other Factors Affecting Entitlement:

<input type="checkbox"/> Overpayment(s)	<input type="checkbox"/> Competency	<input type="checkbox"/> Underpayment(s)	<input type="checkbox"/> Medicaid
<input type="checkbox"/> Dependency	<input type="checkbox"/> Severance Pay	<input type="checkbox"/> Military RP	<input type="checkbox"/> Memo Ratings BDD
<input type="checkbox"/> Apportionment	<input type="checkbox"/> UMEs	<input type="checkbox"/> Unreported Income	<input type="checkbox"/> Lottery Winnings
<input type="checkbox"/> Dividends	<input type="checkbox"/> Sale of Home	<input type="checkbox"/> Dependent Income	<input type="checkbox"/> VA Dom
<input type="checkbox"/> VAMC stay	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional Comments:

ENTITLEMENT TO OTHER BENEFITS:

Other Entitlements Discussed:

<input type="checkbox"/> Comp/Pen Increase	<input type="checkbox"/> VRE Benes	<input type="checkbox"/> VHA Benes	<input type="checkbox"/> VA Home Loan
<input type="checkbox"/> Dependency	<input type="checkbox"/> Adaptive Home	<input type="checkbox"/> Adaptive Auto	<input type="checkbox"/> Election of benes
<input type="checkbox"/> Apportionment	<input type="checkbox"/> Medicaid	<input type="checkbox"/> State Benefits	<input type="checkbox"/> Clothing allowance
<input type="checkbox"/> Local Benefits	<input type="checkbox"/> County Benefits	<input type="checkbox"/> CHAMPVA	<input type="checkbox"/> Chapter 35 GI Bill
<input type="checkbox"/> NCA Benefits	<input type="checkbox"/> GI BILL (Vets)	<input type="checkbox"/> Veterans Pref.	<input type="checkbox"/> Survivor's Pref.
<input type="checkbox"/> DIC	<input type="checkbox"/> Helpless Child	<input type="checkbox"/> SMC	<input type="checkbox"/> SMP
<input type="checkbox"/> Spousal A/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional Comments:

Beneficiary's Physical Address:

Beneficiary Physical Address	[REDACTED]
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Action(s) Pending With VA:

Pending Action By End Product:	
Additional Comments on Actions Pending or to be taken:	

Misc Diary:

Misc Diary Date:	
LIE Instructions/Reason:	Please see box 24 on 4716a
LIE Instructions/Reason:	

DIARY:

Overall Situation of Beneficiary:	excellent
Future Field Examination:	FBP
How Many Years:	3 year(s)
Diary Date:	08/01/2015
Justification of Diary Date:	Manual Reference: XI.2.E.33.a

FIELD EXAMINER: Courtney Andrascik

Date of Report: 8/1/2012

Digital Signature: vscandr

Spell Check & Clear Tables

Tab 20

**Department of
Veterans Affairs**

Memorandum

Date: 3 November, 2009
Rescinds SOP dated October 22, 2009

From: Western Area Fiduciary Hub Manager

Subj: SOP for Processing Misuse (Amended)

Definition of Misuse: Any case in which the fiduciary receives payment, under the laws administered by the Secretary, for the use and benefit of a beneficiary and uses such payment, or any part thereof, for a use other than for the use and benefit of such beneficiary or that beneficiary's dependents.

The following identifies the steps to be followed when a misuse allegation is received or is suspected by an LIE or field examiner.

1. When an allegation of potential misuse is received from a beneficiary or their authorized representative, third parties or by VA discovery, the information received or documentation of the potential misuse will be provided to the Program Manager (PM). Field examiners will provide this information by e-mail and will include all documentation and evidence obtained. Upon receipt, the PM will review the package and, if appropriate, establish a WPC 570 in FBS . An LIE team member will be assigned the case to review. The PM will update the Misuse Log on the shared drive and establish a diary date for the report to be completed by the LIE.
2. The LIE assigned the case will establish a misuse status form and complete all appropriate information requested. The case will be reviewed in VVA, necessary telephone calls made, obtain facts, etc., to determine if there is the potential of the allegation being valid. Numerous instances of improper use can also be classified as misuse. A memorandum will be completed by the LIE (as illustrated in M21-1MR, Part XI, Chapter 5, Section B,9,a, in the manual) summarizing all of the facts and information obtained during the investigation and making a recommendation as to whether further action is needed.
3. Upon completion of the memorandum, the LIE will complete the WPC 570 in FBS and submit the report to the PM for review and concurrence of the WAFH Manager. All of the above actions must be completed within 14 days. If potential misuse is not determined, the memorandum must state what evidence was used to make the decision.

4. If a determination is made that there is potential misuse, the point of contact LIE for that region will be instructed to establish a WPC 571 in FBS and download the necessary information in VVA by the PM. The LIE cannot assign the same field examiner that appointed the fiduciary initially to conduct the WPC 571 misuse investigation. The entity or person the allegation is made against must be visited in person and completed within 45 days. The report must include all information listed in M21-1MR, Part XI, Chapter 5.C.11.a. The report must be able to "stand on it's own." Exhibits obtained by the field examiner/LIE will support and confirm information contained in the report.
5. During the investigation, if misuse is found, the field examiner must e-mail the point of contact LIE for his/her area, along with copying the PM and the field examiner's Coach to establish a WPC 513. The establishment date for the WPC 513 successor exam will be the same as the establishment date of the WPC 571.
6. Upon receipt of the completed investigation report by the PM, the WPC 571 will be completed in FBS and a WPC 572 will automatically be established in the system. The investigative report will be forwarded to the PM to assign to an LIE for review. The report and evidence will be reviewed within 30 days and a decision made regarding misuse. The following steps will be completed based upon whether misuse was determined:
 - Misuse not found – The LIE will change WPC 572 to WPC 574 and report time in MisUseHrs in FBS; complete WPC 574 in FBS; and provide completed report to the PM. The WAFH Manager must approve the determination. A copy of the report will be scanned into VVA and a copy of the complete package e-mailed to VAVBAWAS/CO/F&FE using "Misuse Determination Transmittal" in the subject line.
 - Misuse is found - A misuse determination report will be prepared and submitted to the PM for approval of the WAFH Manager and concurrence of the Director. Misuse determinations will include all required elements listed in M21-1MR, Part XI, Chapter 5.D.12.d.
7. When the misuse determination is completed and approved, a copy of the misuse determination report and a notification letter will be sent to the to the fiduciary in question. The documents will provide the fiduciary with the decision regarding the misuse, the amount of the debt, instructions for repayment, and the reconsideration process. A copy of this document will be submitted to the PM. The PM will close the WPC 572 and establish a

manual diary date for 30 days. The fiduciary must provide new evidence or information supporting their denial of misuse or to make arrangements for repayment of the funds. A copy of the misuse notification letter will be sent to the successor fiduciary and a copy provided to the Fiscal Activity to notify them of the potential incoming funds.

***At this time, if the fiduciary in question has other cases, an onsite visit will be scheduled to be completed immediately by a field examiner or LIE.**

8. If the Fiduciary submits new information or evidence during the reconsideration period, it will be provided to the PM, who in turn will assign the case to a LIE team member to establish a WPC 573. The new information/evidence will be reviewed and a decision made regarding the reconsideration determination within 30 days. Upon completion it will be submitted to the PM. Based on the recommendation the following action is required:
 - Misuse not found – If misuse is not determined, a reconsideration determination report will be completed. The report will document what evidence was used to determine there was not misuse. The MisUseHrs and MisUseAmt in the WPC 573 FBS record will be adjusted and the WPC 573 completed. The reconsideration report will be provided to the PM to provide to the WAFH Manager and to the Director for approval. The reconsideration report, evidence obtained, etc., will be scanned into VVA. A notification letter along with the reconsideration determination document will be sent to the fiduciary in question along with the current fiduciary. A copy of the report will be e-mailed to "VAVBAWAS/CO/F&FE" using "Misuse Determination Transmittal" in the subject line.
 - Misuse continued – After concurrence of the PM and the WAFH Manager supervisor, if misuse is found, FBS MisUseAmt and MisUseHrs will be adjusted and the WPC 573 completed. A WPC 575 will be established for referral to the OIG or Regional Counsel. Once the case has been sent to the appropriate location, the WPC 575 will be completed in FBS. The decision of where the case will be sent will be made through the PM by the WAFH Manager.
9. If the fiduciary did not provide additional evidence within 30 days, the misuse determination will be final. WPC 572 will be completed and WPC 575 will be created. MisUseHrs and MisUseAmts will be entered in the appropriate areas and the WPC 575 completed in FBS after the case is appropriately sent to the OIG or Regional Counsel to address.

10. A copy of the report will be sent to VAVBAWAS/CO/F&FE using "Misuse Determination Transmittal" on the subject line, for VA Central Office, Compensation and Pension Service to review for a negligence determination. When the determination is completed, it will be sent to the Director of the station that issued the original misuse determination.
11. If negligence is determined, the misuse determination received by the Director will be provided to the WAFH Manager and then the PM to follow-up on the reissuing of the funds. The Fiscal Activity will be provided a signed copy of the determination from Central Office along with a request for verification when the funds are released. The station has 14 days to release funds from the time the determination is initially received by the Director at the station.
12. If a case is sent to Regional Counsel and they are unsuccessful through the state court in obtaining funds from the conservator, the case will be forwarded to the OIG for action.
13. If the OIG is sent a case and they refuse to accept a case, they must provide documentation to WAFH in writing stating why they will not accept the case.
14. If actions through the OIG or courts fail to provide the necessary results, the misuse determination package will be reviewed by the WAFH Manager and a decision made as to what action to take.
15. The Misuse Determination will be filed in the beneficiary's C-file and, if applicable, in the fiduciary's onsite review file.



Franko Fritz
Western Area Fiduciary Hub Manager

Tab 21

Department of
Veterans Affairs

Memorandum

X

Date 08/09/12
From WAREA FIDUCIARY HUB MANAGER
Sub MISUSE ALLEGATION WPC 570
To PRINCIPAL GUARDIANSHIP FOLDER

Reference:

C# [REDACTED] VETERAN/BENEFICIARY [REDACTED]
PAYEE [REDACTED]

Allegation: Field Examiner reported possible misuse of funds by gifting thousands of dollars to multiple family members

Exhibit	Reference Document	Exhibit	Reference Document
1	Misuse Allegation	10	
2	Budget	11	
3	Field Exam	12	
4	Field Exam	13	
5	WAFH Approved Expense Request	14	
6	Expense request and bank statements	15	
7		16	
8		17	
9		18	

During a scheduled field exam, the examiner requested a fiduciary replacement due to perceived excessive gifting to the Veteran's family members. The field examiner submitted a request of possible misuse.

This LIE received a call from the coach of the field examiner who conducted the scheduled field exam for this Veteran after the receipt of large amount of retro funds.

The field examiner's coach received a call from the Veteran's fiduciary concerned he was being replaced although he received authorization from the WAFH to spend retro funds on family members. The field examiner's coach requested an additional field exam to obtain another perspective of the family dynamics.

The Veteran was rated [REDACTED] in [REDACTED] ^{at which time} whereas, his sister was appointed his first fiduciary. In 2001 the brother of the Veteran was appointed successor fiduciary and due to the limited income of the Veteran, the family supported the beneficiary with housing, care giving, transportation, etc. When the beneficiary received his retroactive funds in 2012, the WAFH assessed the request to compensate family members through gifting. It was determined the families contribution to the care and maintenance over twenty plus years justified the families gifting request.

At the request of the WAFH coach, a follow-up field exam was conducted with an alternate field examiner. An agreement was reached including authorized spending amounts and use of retroactive payments

The alternate field examiner retained the fiduciary duties on behalf of his brother

Recommendation:

No misuse found

LIE *Jody Moya* Date *8/9/12*

I CONCUR,

f KAREN NALL *Ron Taylor* DATE *8/14/2012*
WESTERN AREA FIDUCIARY MISUSE TEAM MANAGER

FRANKO FRITZ *Kathleen Callahan* DATE *8/14/2012*
WESTERN AREA FIDUCIARY HUB MANAGER

Tab 22

7. Responsibilities of the Legal Instruments Examiner (LIE)

Introduction This topic contains information on the responsibilities of the Legal Instruments Examiner (LIE). It includes information on responsibilities that are shared with other fiduciary staff, as well as those that are specific to the LIE job function.

Change Date July 13, 2005

a. Shared Responsibilities The Legal Instruments Examiner (LIE) shares responsibility with supervisors, FEs, and other fiduciary staff for making administrative and quasi-legal determinations involving the overall supervision of beneficiary estates and the protection of rights to benefits.

Note: There is considerable crossover of interests and mutual support between LIEs and FEs.

b. Reviewing Monetary Needs

The LIE is responsible for

- reviewing the monetary needs of the beneficiary, and
- adjusting allowances accordingly when court action is *not* required.

Note: Consultation with other fiduciary staff may be required. All adjustments to allowances must be confirmed in writing to the fiduciary and documented in the PGF.

c. Acting on Indications of Misuse of Funds

The LIE must take prompt action on indications of fiduciary misuse received by mail, telephone, or as a result of a personal interview.

Continued on next page

7. Responsibilities of the Legal Instruments Examiner (LIE), Continued

**d. Authorizing
Liquidation of
Bonds**

The LIE is responsible for authorizing the

- liquidation of bonds, and
 - release of funds from restricted accounts, after consultation with other fiduciary staff when in order.
-

**e. Protecting
and Advising
on Issues
Surrounding
Benefits**

The LIE is responsible for acting to protect insurance and other rights to VA benefits, and advising fiduciaries of other Federal and State benefits to which the beneficiary may be entitled. This includes

- reviewing records to ensure that all beneficiaries and dependents are accounted for in award actions (such as dependent parents and children living with other relatives)
 - identifying situations where there is a possibility for additional benefits (for example, Aid and Attendance (A&A) or housebound benefits, or benefits for a child over age 18 who remains in school)
 - ensuring that possible entitlement to medical benefits is discussed with the fiduciary and dependents
 - making certain that the spouse and children are aware of possible entitlement to Dependents' Educational Assistance (DEA)
 - ensuring that a request for waiver of insurance premium is submitted for National Service Life Insurance (NSLI) policies or application for reinstatement and waiver of lapsed policies, when indicated
 - following up on diaries when there is a need for the beneficiary and/or the fiduciary to supply information necessary for continuation of benefits, such as income information, and
 - ensuring that beneficiaries are aware of possible entitlement to State and local benefit programs, education benefits, and other community services.
-

**f. Handling
Correspondenc
e**

The LIE is responsible for initiating and responding to correspondence pertaining to individual estate supervision.

Continued on next page

7. Responsibilities of the Legal Instruments Examiner (LIE), Continued

**g. Initiating
Action
Regarding
Payments**

The LIE is responsible for initiating action to have payments adjusted, suspended, resumed, or recovered, when appropriate.

Example 1: Requesting a possible successor fiduciary when the current fiduciary does not account properly or there is evidence of unauthorized expenditures or misappropriation of the beneficiary's funds.

Example 2: Notifying the Veterans Service Center (VSC) of

- a change in income
- a change in dependents
- death
- hospitalization or incarceration of the veteran, or
- other evidence of fraud, waste, or abuse.

Note: When suspension of payments may result in hardship to the beneficiary, every available alternative, including recognition of a custodian-in-fact, must be pursued before initiating suspense action.

**h. Requesting
Transfer of
Funds**

The LIE is responsible for requesting the transfer of institutional award funds to VA for disposition when the veteran dies.

**i. Monitoring
Personal Funds**

The LIE is responsible for monitoring personal funds of patient (PFOP) accounts held at Hines Benefits Delivery Center (BDC).

**j. Requesting
Field
Examinations**

The LIE is responsible for requesting field examinations for estate administration problems and benefit issues.

**k. Taking
Follow-Up
Action**

The LIE is responsible for taking follow-up or corrective action required in any case.

Continued on next page

7. Responsibilities of the Legal Instruments Examiner (LIE), Continued

**l. Developing
Missing
Veteran Cases**

The LIE is responsible for developing missing veteran cases.

**m. Addressing
Issues of
Financial
Hardship**

The LIE is responsible for communicating and/or coordinating with the VSC, Insurance, or Finance activities to arrange prompt release of funds when financial hardship exists.

**n. Identifying
Legal Problems**

The LIE is responsible for identifying legal problems for action by the Regional Counsel.

**o. Handling
Issues
Surrounding
the Death of a
Beneficiary**

The LIE is responsible for

- identifying those cases in which the Federal escheat statutes may apply upon the death of a beneficiary, and
- initiating action to recover funds from those estates to which the Government is entitled.

Reference: For information on escheat statutes and recovering funds to which the Government is entitled, see M21-1MR, Part XI, 4.D.15.

**p. Executing
Change of
Fiduciary**

When assigned, the LIE is responsible for executing the change of fiduciary (CFID) command to update and correct master records.

**q. Ensuring
Accurate
Information on
Cases**

The LIE is responsible for insuring that all information on individual cases in the Fiduciary Beneficiary System (FBS) is both accurate and current.

13. Specific Areas to Evaluate and Document for All IA and FB Field Examinations for Adults, Continued

g. Fund Use and Standard of Living

When evaluating fund usage, the FE must consider the beneficiary's living arrangements and environment.

Fund usage should not be limited to basic needs. To the extent possible, allowances should enable the beneficiary and his/her dependents to enjoy a standard of living consistent with that of individuals having similar income and assets.

When establishing allowances to cover the beneficiary's housing expenses, the FE must consider the beneficiary's living arrangements. Use the following table as a guide in establishing allowances:

If the beneficiary resides...	Allowable expenses may include...
alone (or with dependents) in his/her own residence	all ordinary household expenses to include mortgage payments (if applicable), utilities, home maintenance, real estate taxes, food and insurance.
alone (or with dependents) in rental residence	rent, utilities, and food.
in a shared residence with non-dependent(s)	A proportionate share of rent, utilities and food*.
in a board and care home	room and board only.
in an institution	monthly charge for care.

*When non-dependents reside in the beneficiary's home, the FE must develop and document their contributions to household expenses or non-monetary services in the field examination report.

Positive action should be taken to ensure that proper allowances are provided to the extent that funds are available. Restrictive or meager allowances may retard the beneficiary's adjustment and improvement, while the use of funds to the limit of the adult beneficiary's capacity may assist in adjustment and improvement.

Continued on next page

13. Specific Areas to Evaluate and Document for All IA and FB Field Examinations for Adults, Continued

**g. Fund Use
and Standard
of Living
(continued)**

- The fact that small amounts may be misused should not be a determining factor for establishing or continuing a fiduciary relationship, if most of the benefits are used for the beneficiary's essential needs. The FE should
- consider the unique circumstances of each case in following VA policy to utilize the least restrictive payment method possible,
- establish appropriate allowances based on those unique circumstances, and
- fully document justification for allowances within the field examination report.

17. Verifying Income and Expenditures

Introduction This topic contains information on the responsibilities of the LIE with respect to verification of income and expenditures. It includes information on

- verifying
 - account balances
 - mathematical accuracy
 - income, and
 - expenditures, and
- reviewing any unusual or inappropriate expenditures and taking necessary action, when appropriate.

Change Date July 13, 2005

a. Verifying Account Balances

The LIE is responsible for confirming that the current accounting beginning balance and the final balance on the preceding accounting are in agreement.

Discrepancies *must* be resolved.

The table below outlines the verification requirements for first accounting submissions by court-appointed and Federal fiduciaries.

If the accounting is the first accounting for a ...	Then the beginning balance on the current accounting must be ...
court-appointed fiduciary	the same as the inventory balance.
federal fiduciary	the same as the estate value verified by the Field Examiner (FE) at the time of the initial appointment.

b. Verifying Mathematical Accuracy

In addition to verifying account balances, the LIE must perform an independent computation of all the figures submitted on the accounting to verify the balances shown.

Simple accounting errors, such as failure to credit bank interest or simple errors in addition, are noted and the fiduciary informed so that the errors may be corrected on the next accounting.

Note: Major discrepancies are cause for the account to *not* be approved.

Continued on next page

17. Verifying Income and Expenditures, Continued

c. Verifying Income

To the extent possible, the LIE must verify that all income is accounted for. A review of income should include

- VA income
 - all other known monthly income, such as Social Security or private retirement income, and
 - interest income.
-

d. Reviewing and Verifying Expenditures

All expenditures must be thoroughly reviewed. The LIE, or other individuals, who review accountings, should be alert to indicators of potential misuse or fraud. If such indicators cannot be satisfactorily explained by available means, the LIE must request copies of pertinent receipts, canceled checks, or other documentation to verify the expenditures in question.

Abrupt changes in amounts or schedules of disbursements must be questioned. Such changes may include those listed below.

- Increases in room and board or personal spending allowances.
 - Were they authorized?
 - Are they justified?
 - Can the beneficiary afford them?
- Increases or other changes in dependency allowance.
 - Were they authorized?
 - Are they appropriate?
 - Can the beneficiary afford them?
 - Do these changes indicate a change in the status of the beneficiary's dependents that must be reported?

If increases were not authorized, the LIE must inform the fiduciary that future increases must have prior approval.

Reference: For information on potential indicators of fraud, see M21-1MR, Part XI, 3.D.21.

Continued on next page

17. Verifying Income and Expenditures, Continued

e. Unusual or Inappropriate Expenditures

Each transaction in an accounting must be reviewed in the context of the beneficiary's unique circumstances. Question any expenditure that may seem unusual or inappropriate, and document the PGF with any pertinent information to support your decision to approve the expense. Some examples of unusual or inappropriate expenditures requiring clarification include

- the purchase of an automobile for an unlicensed beneficiary
- expenditures for improvements to any structure or other property not owned by the beneficiary
- medical payments for a service-connected veteran, or
- administrative expenses that should be included in fiduciary fees or commissions.

Such expenses might warrant the

- filing of an exception with the court, or
- the scheduling of a field examination for clarification.

Note: Even after approving an accounting, the LIE must refer large or unusual expenses to a FE to be verified during the next regularly scheduled field examination.

f. Required Action When an Accounting Analysis Identifies Potential Misuse

In any instance where a fiduciary's accounting contains unusual or inappropriate estate activity which cannot be satisfactorily explained through communication with the fiduciary, the case must be referred to the Fiduciary supervisor. The Fiduciary supervisor will make a determination as to whether further investigation is indicated.

Reference: For more information on misuse determinations, see M21-1MR, Part XI, Chapter 5.

Continued on next page

17. Verifying Income and Expenditures, Continued

g. Gifts From Estates of Incompetents

Question any expenditure made for gifts from the incompetent's funds. While gifts from the estates of incompetent veterans are not to be encouraged, they may be allowed subject to the following:

- the needs of the veteran and the veteran's dependents have been met,
- the gift is one that the beneficiary had been in the habit of giving or is one that he or she probably would have given had he or she been competent,
- the gift is made from surplus income, (i.e. income in excess of the amount required for the care, support and maintenance of the incompetent and his or her dependents),
- the amount is reasonable considering his or her circumstances, and
- a court order is obtained if
 - required under state law,
 - the gift is for something other than that which he or she had been giving, or
 - the amount is substantial.

As with any large expenditure, the fiduciary should seek approval prior to gifting from the beneficiary's estate.

Section B. Misuse Allegations

Overview

In this Section This section contains the following topics:

Topic	Topic Name	See Page
6	Types of Misuse Allegations	5-B-2
7	Control of Misuse Allegations	5-B-3
8	Review and Disposition of Allegations	5-B-4
9	Exhibit 1: Memorandum Not To Investigate Allegation of Misuse	5-B-6

6. Types of Misuse Allegations

Introduction This topic contains information on types of misuse allegations.

Change Date July 13, 2005

a. Who Can Allege Misuse? An allegation or other indication of misuse may come from many sources, to include:

- beneficiaries or their authorized representatives
- third parties
- VA discovery

b. Can an SDP Beneficiary Allege Misuse? A supervised direct pay individual, as well as his or her friend, relative, interested third party, or a successor fiduciary, may claim misuse in these cases as VA is de facto acting as fiduciary.

c. VA Discovery of Potential Misuse Potential misuse may be identified by VA during the course of routine supervision and estate administration. Any situation that indicates the possibility of misuse must be fully documented and referred to the Fiduciary supervisor for review.

d. Acceptable Format

Allegations of misuse will generally come in the form of

- written communication or
- verbally, by telephone or personal interview.

If the complaint is received verbally, the complainant should be requested to put his or her statement in writing. If they are unwilling to do so, the allegation must be documented on *VA Form 119, Report of Contact*

- fully detailing the allegation and
- identifying the name of and contact information for the alleger.

If the complainant refuses to identify him or herself, include this fact.

7. Control of Misuse Allegations

Introduction

This topic contains information on appropriate control of misuse allegations.

Change Date

July 13, 2005

a. Timeliness of Processing

Each allegation of misuse must be addressed within 14 days of receipt in the Fiduciary Activity. Written allegations must be date stamped immediately upon receipt to ensure timely processing.

b. Control

A work process record must be established in FBS and assigned as soon as is practical after receipt of an indication of misuse.

Refer to the following table for information on establishing work process records:

If the allegation (or indication) of misuse is ...	The FBS "received" date for processing purposes will be the date...
received in writing	stamped as "received" on the document.
received by telephone or personal interview	of the telephone call or personal interview.
discovered by VA during routine estate administration	of discovery.

8. Review and Disposition of Allegation

Introduction	This topic contains information on review and disposition of allegations of misuse.
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Change Date	July 13, 2005
<hr/>	
a. Review of Allegation	<p>Each allegation of misuse must be reviewed for merit. Compare the allegations with documentation contained in the PGF. Each allegation must be investigated unless there is clear evidence that the allegation has no basis in fact.</p> <p>This review must be completed, and appropriate action taken, within 14 days of</p> <ul style="list-style-type: none"> • receipt of allegation of misuse, or • identification of potential misuse by VA.
<hr/>	
b. Assignment to Investigate	Unless documented circumstances make investigation unnecessary, establish a work process record for misuse investigation and assign for investigation.
<hr/>	
c. Possible Reasons <i>Not</i> to Investigate	<p>Following are examples of possible reasons not to investigate an allegation of misuse:</p> <ul style="list-style-type: none"> • an allegation that clearly indicates the complainant misunderstands the payee's duties and authority, such as <ul style="list-style-type: none"> – an allegation that the payee is misusing a beneficiaries funds by charging a commission for serving as payee when VA has properly authorized a commission, or – allegations that the fiduciary refuses to pay a beneficiary's bills when VA has specifically disallowed those items • multiple allegations concerning an issue that has previously been reviewed or investigated.

Continued on next page

8. Review and Disposition of Allegation, Continued

d. Decision Not to Investigate Any decision *not* to investigate an allegation of misuse must be documented by a memorandum approved by the VSCM or designee, not lower than the supervisor of the Fiduciary Activity. The memorandum must include the reasons for this decision and be filed in the principal guardianship folder (PGF).

Note: If the same issue has previously been reviewed or investigated, annotate the new *VA Form 119* or complaint letter. A memorandum not to investigate is not required.

Reference: For suggested memorandum format, see M21-1MR, Part XI, 5.B.9.

e. Necessity to Inform VSCM and Director of Pending Investigations Formal determinations made during the process of resolving a misuse allegation require involvement of the VSCM and the station director. It is, therefore, essential that these individuals be kept informed of pending misuse investigations.

9. Exhibit 1: Memorandum Not To Investigate Allegation of Misuse

Change Date July 13, 2005

a. Misuse Memorandum A sample memorandum decision not to investigate an allegation of misuse is below.



Department of
Veterans Affairs

Memorandum

Date:

From: Veterans Service Center Manager (or designee not lower than Fiduciary Activity Supervisor)

Subj: Misuse investigation

To: Principle Guardianship File

1. An allegation of misuse was received from [IDENTIFY SOURCE] indicating that there was misuse of the funds for [NAME OF BENEFICIARY]. The allegation and the evidence of record in the Principle Guardianship File have been carefully reviewed.

2. It is determined that there is no need to investigate the allegation of misuse because REASONS FOR NOT INVESTIGATING [e.g. *the evidence clearly indicates the complainant misunderstands the payee's duties*].

VSCM or DESIGNEE

Note: The memorandum must be filed in the PGF.

10. Investigating the Misuse Allegation

Introduction	This topic contains criteria for a misuse investigation.
Change Date	July 13, 2005
a. Timeliness of Investigation	The misuse investigation, to include replacement of the fiduciary if necessary, must be completed within 45 days.
b. Required Contacts	<p>The misuse investigation must include personal, face-to-face, interview with</p> <ul style="list-style-type: none"> • the fiduciary, and • any other person or persons your investigation reveals may have pertinent information regarding the allegation.
c. Evidence	<p>The misuse investigation may include</p> <ul style="list-style-type: none"> • review of the fiduciary's banking records, receipts, or cancelled checks, or • contact with the beneficiary to ensure possession of questionable items and to confirm or refute a fiduciary's claims regarding fund usage.
d. Purpose and Intent of the Investigation	<p>A misuse investigation is conducted for the purpose of developing all available evidence to enable the VSCM to make a conclusive determination as to whether actual misuse has occurred. The investigation must continue until there is a preponderance of evidence to support a conclusion.</p> <p>As the seriousness of a misuse allegation requires thorough development, the investigation</p> <ul style="list-style-type: none"> • may not be made by the individual who will make the final determination as to factual misuse and • must continue until all parties have been interviewed and all available evidence has been gathered. <p><i>Note:</i> Where appropriate, depositions should be taken from interviewees.</p>

Continued on next page

– 10. Investigating the Misuse Allegation, Continued

**e. Ancillary
Actions**

When the misuse investigation reveals misuse by the fiduciary, action must be taken to replace the fiduciary. When a successor fiduciary is found necessary, a separate field examination will be generated for that purposes; the date of this field examination request will be *the same date as the date of the request for misuse investigation* as all corrective actions must be completed within this 45 day period.

The FE will generate a second field examination request and develop this action separate and apart from the misuse investigation, taking appropriate work credit for each investigation. Time expended in locating and appointing the successor fiduciary *will not be included in misuse hours*.

12. Misuse Determinations

Introduction This topic contains information on misuse determination content and format.

Change Date July 13, 2005

a. Responsibility for Misuse Determinations A formal misuse determination must be prepared whenever a misuse allegation is received and investigated.

Misuse determinations will be made by the supervisor of the Fiduciary Activity and approved by the VSCM. Any decision that finds actual misuse must also have concurrence of the station director.

Misuse determinations will not be reversed by the director in the absence of clear and unmistakable error at the RO level.

b. Purpose of the Misuse Determination The misuse determination is the official decision document in response to the allegation of misuse. It serves to summarize the facts and circumstances upon which the determination was made. When misuse is found, a copy of this document is provided to the fiduciary with notification of the determination.

c. Completeness of Review The seriousness of the misuse allegation and implications of a finding of factual misuse require that the decision maker thoroughly review all available evidence prior to making a final determination. This review should include a review of the PGF, in addition to the Misuse Investigation Report with supporting exhibits and any other relevant material.

Continued on next page

M21-1MR, Part XI, 5.D.12, Continued

d. Required Elements

Each misuse determination, regardless of the finding, must include the following elements:

- Statement of Authority (Title 38 U.S.C. 6106)
- Identifying information
 - VARO
 - Veteran's name
 - Claim number
 - Beneficiary name
 - Fiduciary name
 - Fiduciary Social Security Number/Tax Identification Number
 - Fiduciary category (individual, individual serving 10 or more, or other than an individual regardless of the number of beneficiaries served)
- Statement of allegations
- Facts, to include any corrective action (i.e. appointment of successor)
- Determination
 - conclusion regarding misuse
 - misuse amount, when misuse found, and
 - how misuse amount was determined
- Determination date
- Signature and concurrence block(s)

Reference: For a further description of the required elements, as well as an example of suggested format for the misuse determination, see M21-1MR, Part XI, 5.D.15.

Continued on next page

M21-1MR, Part XI, 5.D.12, Continued

e. Copies of Determination

The original determination document will be filed in the PGF. Copies must also be prepared for

- attachment to the notification letter sent to the fiduciary
- attachment to copy of notification letter sent to the successor fiduciary (or beneficiary if there is no fiduciary)
- the veteran's claims file
- the station onsite review file (if one exists)
- referral to the Office of Inspector General (OIG), as appropriate
- the station Fiscal Activity when reissuance of benefits is required

A copy of each misuse determination, regardless of the finding, must also be sent to the Fiduciary Program Staff, VACO. The PGF must accompany this document when a negligence determination is required.

Decisions that do not require a negligence determination may be sent electronically to VAVBAWAS/CO/F&FE, using "*Misuse Determination Transmittal*" in the subject line.

Reference: For information on reissuance of benefits and negligence determinations, see M21-1MR, Part XI, 5.E.

f. Finality of Determination

Misuse determinations are final unless additional evidence is received within 30 days of the date of the determination. Requests for reconsideration received more than 30 days from the date of the determination will not be considered.

g. Required Unscheduled Onsite Review

Any determination that misuse has occurred will result in a special unscheduled onsite review if the fiduciary is a multi-fiduciary, **regardless of the number of cases managed.**

Reference: For procedures involving onsite reviews, see M21-1MR, Part XI, 6.A.

Continued on next page

M21-1MR, Part XI, 5.D.12, Continued

**h. Action by
F&FE**

When funds are recovered from a former fiduciary as a result of a misuse determination, the Fiduciary Activity will instruct the RO Fiscal Activity whether to

- remit recouped funds to the successor fiduciary, or
 - return them to the current appropriation if VA previously reissued benefits.
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