

United States Senate

WASHINGTON, DC 20510

February 29, 2024

Chair Lina Khan
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Dear Chair Khan:

We write to ask that the Federal Trade Commission (FTC) investigate those who are charging veterans exorbitant fees for filing Department of Veterans Affairs (VA) initial claims. Based on the results of your investigation, we urge the FTC to use its Section 5 powers, and any other relevant authority, to hold accountable any of these entities violating federal law.

Filing for benefits through the VA can be a time-consuming and complex process. Veterans often seek help in trying to obtain benefits, and unscrupulous people can prey on veterans by charging very high fees or demanding a percentage of the increase in benefits. In recognition of this fact, Congress has set limits on who can help veterans file for benefits. Chapter 59 of Title 38 of the U.S. Code specifies that only agents and attorneys accredited by the VA may prepare, present or prosecute claims for a veteran's benefits claim. However, the provisions permitting the criminal prosecution of unaccredited agents or attorneys was stricken over a decade ago. There is pending legislation to restore these penalties, but veterans are currently being harmed by these unfair practices.¹

The VA's Office of General Counsel (OGC) oversees the system to accredit and regulate agents and attorneys so that veterans may receive competent help. Additionally, only accredited attorneys and agents may charge veterans for help with their benefits claim, and VSOs offer free assistance for filing initial claims. OGC also receives complaints from veterans about accredited and unaccredited representatives and attorneys alike. The VA has said that "[o]f the 280 complaints sent to the VA Office of General Counsel (OGC) from 2018 to 2022, 40% were related to unaccredited individuals and organizations."²

However, since the passage of the *Sergeant First Class Heath Robinson Honoring Our Promise to Address Comprehensive Toxics (PACT) Act of 2022*³ to help veterans exposed to toxic substances, even more of America's veterans have been targeted by unaccredited firms and individuals offering to help with benefits claims for payment. These entities may call themselves consultants or coaches, but whatever their names, many of them charge significant fees for preparing benefits claims in contravention of current law. Worse still, there have been reports that these fees may be as high as five times the monthly increase in benefits the veteran receives. Hence, a \$2,000 monthly increase in benefits could result in a \$10,000 bill for the veteran, a fee structure that may violate the bar on veterans being able to assign their VA benefits.⁴ Additionally, numerous media articles have detailed allegations of unfair and deceptive conduct by claims consultants and coaches.⁵

¹ The GUARD VA Benefits Act of 2023 (S.740)

² CBS News, "Some private companies charge hefty fees to help veterans with disability claims," by Michelle Andrews, May 11, 2023, <https://www.cbsnews.com/news/veterans-disability-claims-companies-charge-fees/>.

³ Public Law 117-168.

⁴ Senate Veterans Committee, "Tester, Boozman, Blumenthal, Graham, Colleagues Call on VA to Protect Veterans Filing Benefits Claims," September 14, 2023, <https://www.veterans.senate.gov/2023/9/tester-boozman-blumenthal-graham-colleagues-call-on-va-to-protect-veterans-filing-benefits-claims>.

⁵ CBS News, "Some private companies charge hefty fees to help veterans with disability claims," by Michelle Andrews, May 11, 2023, <https://www.cbsnews.com/news/veterans-disability-claims-companies-charge-fees/>; Texas

In February 2023, the Consumer Financial Protection Bureau (CFPB) and the VA said “there has been an influx of predatory advertisements, which purport to help Veterans—often through the guise of “medical consulting” or “benefits coaching”—submit their initial claims to the VA for a fee.”⁶ The CFPB and VA noted that “unauthorized assistance in claim preparation is illegal” and said that “[w]e have heard reports that unscrupulous actors have misled some veterans into paying hundreds of thousands of dollars in illegal fees.”⁷

One company was warned by the VA that it “may be engaged in illegal activities, which include the unauthorized representation of claimants for VA benefits and charging them for your service.”⁸ The VA ordered this company to cease operations. However, as one VA official explained in testifying before Congress, “[b]ecause there are no criminal penalties under federal law specific to this practice, VA’s recourse is to report the matter to federal, state, or local agencies for consideration under their rules or laws.”⁹ In one such referral, a state attorney general obtained a permanent injunction under state law against one company that “misrepresented to veterans, their spouses, and their family members that they were experts qualified to assist veterans with preparing and submitting their claims for benefits to the VA.”¹⁰ However, this company would only need to cease operations in that state and would be free to continue its practices in other states. It also bears mention that in December 2023 Texas Attorney General Ken Paxton sued one of the larger companies in this market under its powers to bar deceptive trade practices.¹¹

Because the VA has limited tools to stop unaccredited individuals preparing benefits claims, some veterans have turned to litigation. For example, there is a class action suit pending in federal court against a claims consultancy for filing VA benefits claims without accreditation and for charging excessive fees¹². A similar suit has been filed in a Maryland state court.¹³

We believe the actions of unaccredited coaches luring veterans into paying excessive fees for assistance may violate a number of federal statutes, including Section 5 of the FTC Act that bars unfair and deceptive practices. Given the limitations of the VA’s authority to regulate effectively this market and

Tribune, “As veteran disability claims soar, unaccredited coaches profit off frustration with VA system,” by Jasper Craven, July 5, 2023, <https://www.texastribune.org/2023/07/05/veterans-disability-benefits-brian-reese-va-claims-insider/>

⁶ “WARNO: They call themselves “coaches” or “consultants” and advertise their ability to assist you with your VA benefits claim but may not be accredited to practice before the VA” CFPB, February 15, 2023, <https://www.consumerfinance.gov/about-us/blog/coaches-consultants-advertise-ability-to-assist-with-va-benefits-claim-but-may-not-be-accredited/>.

⁷ Id.

⁸ April 15, 2019 letter from Department of Veterans Affairs Office of General Counsel, <https://static.texastribune.org/media/files/9535f0650a967789ffbc5a6c7f7fa110/VAletter%20%20202019.pdf>.

⁹ Senate Veterans Committee, “Veterans Consumer Protection: Preventing Financial Exploitation of Veterans and their Benefits,” April 19, 2023, <https://www.veterans.senate.gov/2023/4/veterans-consumer-protection-preventing-financial-exploitation-of-veterans-and-their-benefits>.

¹⁰ Louisiana Attorney General Jeff Landry, “Louisiana Company Targeting Veterans Shut Down,” January 8, 2021, <https://www.ag.state.la.us/Article/10849>.

¹¹ “Attorney General Ken Paxton Sues Texas Company for Defrauding Veterans Seeking VA Disability Benefits,” December 12, 2023, <https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-sues-texas-company-defrauding-veterans-seeking-va-disability-benefits>.

¹² *Ford v. Veterans Guardian VA Claim Consulting, LLC*, 1:23-cv-756 (M.D.N.C. Sept. 1, 2023)

¹³ Baltimore Sun, “Lawsuit accuses Maryland-based disability claims firm of unlawful practices,” October 8, 2023, <https://www.baltimoresun.com/2023/10/08/lawsuit-accuses-maryland-based-disability-claims-firm-of-unlawful-practices/>.

gaps in state enforcement, we believe other agencies must step in and use their authority to protect veterans from unaccredited coaches and consultants filing claims for benefits.

Therefore, we ask:

- The FTC to use its Section 5 authority along with any other relevant statutory powers to investigate the VA benefits coaches and consultants market. Moreover, we also believe that this growing market warrants FTC study.
- The FTC use its authority pursuant to Section 6(b) of the FTC Act to assess the practices of benefits consultants, coaches and others claiming to help veterans obtain benefits from the VA. We ask further that this investigation culminate with a publicly released report that includes findings and legislative and regulatory recommendations.
- The FTC work with the VA, Department of Justice (DOJ), CFPB and other relevant federal stakeholders on any other means to protect veterans.

Thank you for your consideration.

Sincerely,



Jeanne Shaheen
United States Senator



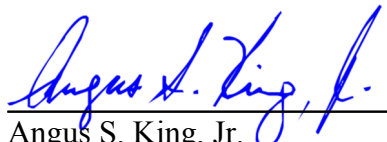
John Fetterman
United States Senator



Christopher A. Coons
United States Senator



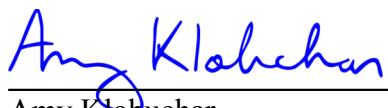
John Hickenlooper
United States Senator



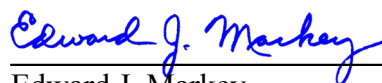
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United States Senator



Richard J. Durbin
United States Senator



Amy Klobuchar
United States Senator



Edward J. Markey
United States Senator



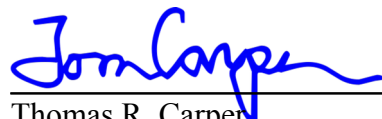
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United States Senator



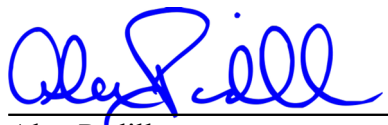
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United States Senator



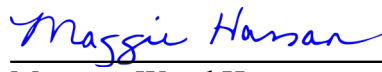
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United States Senator



Thomas R. Carper
United States Senator



Alex Padilla
United States Senator



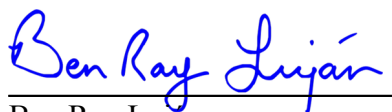
Margaret Wood Hassan
United States Senator



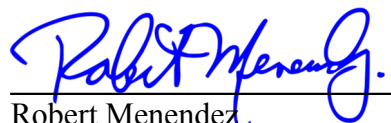
Elizabeth Warren
United States Senator



Tina Smith
United States Senator



Ben Ray Lujan
United States Senator



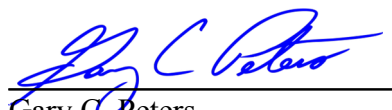
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United States Senator



Bernard Sanders
United States Senator



Chris Van Hollen
United States Senator



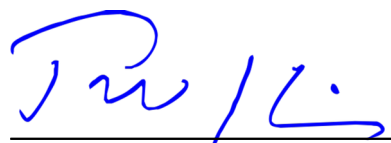
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United States Senator



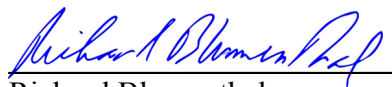
Tammy Baldwin
United States Senator



Cory A. Booker
United States Senator



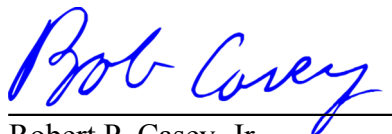
Tim Kaine
United States Senator



Richard Blumenthal
United States Senator



Sheldon Whitehouse
United States Senator

A handwritten signature in blue ink that reads "Bob Casey". The signature is fluid and cursive, with the first name "Bob" and last name "Casey" clearly legible.

Robert P. Casey, Jr.
United States Senator

A handwritten signature in blue ink that reads "Martin Heinrich". The signature is stylized and cursive, with the first name "Martin" and last name "Heinrich" clearly legible.

Martin Heinrich
United States Senator