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April 3, 2016

Chairmen, Ranking Members, Members of the US House and Senate Committees of Veterans Affairs and the Secretary, Department of Veterans Affairs

Dear Committee Members and VA Secretary:

AFGE Local 520, the exclusive representative of the bargaining unit of VARO Columbia, SC, wants to address the SES accountability circus ended in comedy central, the VA racial divide, more contractors, and the heterogeneous VBA workload.

Excerpts from the article, *VA suspends top official in relocation scam*, Mail Online, March 23, 2016, only confirm what we predicated.

- “WASHINGTON (AP) — The Department of Veterans Affairs is suspending the head of the Veterans Benefits Administration for allowing two lower-ranking officials to manipulate the agency's hiring system for their own gain.
- Deputy VA Secretary Sloan Gibson says acting VBA chief Danny Pummill will be suspended without pay for 15 days for his role in a relocation scam that has roiled the agency for months.
- Pummill failed to exercise proper oversight as Kimberly Graves and Diana Rubens forced lower-ranking managers to accept job transfers and then stepped into the vacant positions themselves, keeping their senior-level pay while reducing their responsibilities, Gibson said Tuesday.
- Pummill is one of VA's five highest-ranking officials and leads VBA's employees across 56 regional offices nationwide that provide compensation and pension benefits, life insurance, home loans and other services to millions of veterans.
- Under VA rules, Pummill can appeal his suspension to an independent arbiter.
- Pummill was the VBA's deputy chief when Rubens and Graves implemented the job relocations, which put both of them closer to their families. Pummill replaced former VBA chief Allison Hickey, who retired as allegations against Rubens and Graves were made public.
- Graves and Rubens were reprimanded Tuesday and had their pay cut by 10 percent. The two women were reinstated to their positions last month after administrative judges overturned their demotions.

- Gibson said the disciplinary actions were in the best interests of veterans and taxpayers. "Ultimately, that is what these decisions are about: getting back to the work of serving America's veterans," he said.
- Rep. Jeff Miller, R-Fla., chairman of the House Veterans Affairs Committee, called the actions "a weak slap on the wrist."

The email below was forwarded to the employees of the Columbia VARO on March 24, 2016, and shows that the SES accountability efforts have turned from a circus to comedy central.

From: VAVBAWAS/CO/OFO

Sent: Thursday, March 24, 2016 7:34 AM

To: VBACO_RODirecs; VBACO_AreaDirec; VBACO_HRCDir

Cc: VBACO_Area_Leads; Carroll, Felicia, VBAVACO; McClelland-Perry, Teri, VBAVACO

Subject: A Message from Acting Under Secretary Pummill: Accountability Action

March 24, 2016

All,

Please ensure that the following message is shared with all of your employees;

VBA Team and Partners,

As you may have heard, proposed punishments have been made by the Department regarding the findings of an IG report alleging misuse of the relocation program and incentives within VBA.

As a large federal agency, accountability is an obligation. VBA is entrusted with the responsibility for taxpayer dollars to pay direct benefits to Veterans, their families and Survivors. Accountability is important—everything VBA does affects the Veteran. And it affects the American people—we have to be good stewards of taxpayer dollars in serving Veterans.

As the leader of VBA, I understand and accept the punishment administered by the Department. Responsible leadership and accountability means not only administering punishment, but also accepting it if you've made mistakes. It's something I believe in and have understood all my life, whether it was in my 30 years of military service or in the federal government.

It is up to each one of us at VBA to hold ourselves and each other accountable for doing our jobs ethically and honestly. Our Veterans and their families, and the American people, deserve nothing less.

Thank you,

Danny Pummill

The punishment of Acting USB Pummill is interesting. The 15 day suspension was the minimum amount of days that an employee can appeal to the MSPB. Therefore, one must assume from the email that Acting USB Pummill is accepting his minimum sentence. What a noble concession.

His punishment is affront to discipline and makes a mockery of the VA core values which annually every VA employee confirms their commitment to. His promotion, 15 days' vacation which will be comfortably covered by his raise since October 2015, and sending an email to employees talking about accountability, protecting taxpayers' dollars, ethics and honesty, and serving Veterans and their families are all material for a comedy turned into tragedy. He also talked about his 30 years of military experience. Therefore, he should know that his actions have seriously damaged his ability to lead the VBA. Therefore, his resignation is the only acceptable resolution to this breach of the trust of us Veterans, the dedicated employees of the VBA, and the treasury of the United States. Moreover, the VA top brass should also know this. Leaders should be held to a higher standard.

The following Douglas Factors are relevant in this case:

- (1) The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
- (2) the employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
- (8) the notoriety of the offense or its impact upon the reputation of the agency;
- (9) the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question

(Excerpts from the article, *VA Worker Gets Job Back Despite Armed Robbery Charge*, *The Daily Caller*, March 22, 2016, only confirm the accountability problems at the VA and the SES relocation debacle only serves as more fuel for the forest fire.

- "A Department of Veterans Affairs employee in Puerto Rico was fired after being arrested for armed robbery, but her union quickly got her reinstated — despite a guilty plea — by pointing out that management's labor relations negotiator is a registered sex offender, and the hospital's director was once arrested and found with painkiller drugs.
- Employees said the union demanded her job back and pointed out that Tito Santiago Martinez, the management-side labor relations specialist in Puerto Rico, who is in charge of dealing with the union and employee discipline, is a convicted sex offender. Martinez reportedly disclosed his conviction to the hospital and VA hired him anyway, reasoning that "there's no children in [the hospital], so they figure I could not harm anyone here."
- The union's position — that another employee committed a crime and got away with it, so this one should, too — has been upheld by the highest civil service rules arbiters, and has created a vicious Catch-22 where the department's prior indefensible inaction against bad employees has handcuffed it from taking action now against other scofflaws.
- The same reasoning was used by the Merit Systems Protection Board (MSPB) to justify reinstating VA executives Diana Rubens and Kim Graves after they swindled hundreds of thousands of dollars by bullying others out of jobs and then cashing in on relocation bonuses to take the jobs themselves.
- "There is a significant problem created by the inconsistent treatment of a comparable employee, and that this makes the penalty unreasonable under the circumstances," an MSPB judge wrote.

- Axel Roman, a spokesman for the VA Puerto Rico hospital, told The Daily Caller News Foundation that recent violent crime convictions don't disqualify someone from working for the VA.
- "Criminal prosecution or conviction for off-duty misconduct does not automatically disqualify an individual from federal employment. The administrative discipline process for poor performance or misconduct on the job, operates distinctly from the administrative process associated with off-the-job misconduct. Accordingly, one is not necessarily impacted by the other," Roman told The DCNF.
- A different logic was deployed after the hospital's director, DeWayne Hamlin, was arrested on suspicion of drunk driving and found in possession of painkillers. He refused to tell police where he got the pills. The diversion of painkillers from VA hospitals for recreational uses has been a major and deadly problem for the VA.
- The DWI charge against Hamlin was dismissed because of concerns over the legality of the traffic stop. If discipline and criminal charges are unrelated, as the VA now contends, it could have launched an unrelated internal investigation into whether Hamlin stole drugs. But instead, it used the criminal case's dismissal to say no administrative action would be taken.
- Eugene Lugo, the AFGE local president in Puerto Rico, hung up the phone when The DCNF asked him about the Rivera case. James Hutton, VA's chief spokesman in Washington, D.C. did not respond to a request for comment."

Excerpts from the article, *VA: Phila. director deserves pay cut, reprimand*, *Philly.com*, March 22, 2016, address Ms. Rubens' punishment and silence.

- "The U.S. Department of Veterans Affairs on Tuesday said it had reprimanded the director of its Philadelphia benefits office and proposed cutting her pay by 10 percent to punish her for arranging her own transfer to the job in 2014.
- Rubens and her attorney did not respond to a request for comment Tuesday."

VAOIG report 15-02997-526, *Veterans Benefits Administration, Administrative Investigation, Inappropriate Use of Position and Misuse of Relocation Program and Incentives*, September 28, 2015, also contained these words.

Claims for Meals and Tips Included Alcoholic Beverages

.... Based on our review of receipts submitted by Ms. Rubens, we determined that she claimed and was reimbursed \$76.50 for alcoholic beverages.

Unauthorized Meals and Tips Expenses During TDY

Based on travel records,... Ms. Rubens' dependent, also a VBA employee, was on TDY from September 2 through September 4, 2014. According to the FTR, when claiming TQSE, the employee (Ms. Rubens) must provide a receipt for every authorized expense over \$75 ... Ms. Rubens claimed TQSE expenses of \$92 on September 2, 2014; \$88 on September 3, 2014; and \$92 on September 4, 2014. Ms. Rubens did not provide itemized

receipts as required for these days. Therefore, we question \$47 in meals and tips that exceeded \$75 per day.

Recommendation 3. We recommended the Deputy Secretary consult with the Office of General Counsel to determine whether Ms. Rubens should be issued a bill of collection for \$123.50 to recoup the improper reimbursements paid to her for alcoholic beverages and unauthorized meals and tips.

Why bring up these seemingly insignificant events?

There were four employees who traveled from Columbia, SC to Chicago, IL for training. They shared a limousine ride which cost \$80.00 and all claimed the \$80.00 as travel expenses. The travel clerk questioned the reimbursement and reported it. The former Director who knew the extent of the problem called the local VAOIG to investigate and interrogate these employees. These employees all received a 30 days suspension for their actions. These employees were African Americans.

As to the VAOIG, when it was reported that the former Director, who sentenced these employees, was using VA employees to collect monies from other VA employees for the use of the US Postal Service parking lot, the VAOIG responded to complaint 88-2009-5825 in this fashion.

“This is in response to the letter you sent to the VA's Office of Inspector General Hotline. After reviewing the information you provided, we have reached a determination regarding your request. The box marked below provides you with our suggestion for resolving your concerns: **We plan to take no further action, nor will we respond to future submissions on this issue.**”

(G11) We have included a suggestion below as to where you may wish to pursue your concerns. Additional information (as warranted) – Director's office

Which issue do you think the VAOIG should have investigated?

VAOIG report 15-02997-526, *Veterans Benefits Administration, Administrative Investigation, Inappropriate Use of Position and Misuse of Relocation Program and Incentives, September 28, 2015*, also contained these words.

“During a May 13, 2015, interview, Ms. Hickey expressed concerns about the toll the Baltimore job would have on the Director. We asked whether Ms. Graves was considered for this position and she replied she was “not going to go put her into a problem RO ...” She further stated Baltimore “was going to suck the last ounce of blood” out of whoever went into the Baltimore Director's position. She also acknowledged that getting Mr. Waller to Baltimore involved “heavy twisting” and was “just a fraction short of mandated ... we sweetened the pot.”

Who was sent to have the “last ounce of blood” sucked out? According to the US Census, Baltimore is 63.7% African American. <http://www.census.gov/quickfacts>. What was the real reason behind these comments?

Another important factor in discipline and the composition of the VA leadership locally and nationally is race. We will cover the racial divide in detail in future correspondence. Of course, this is a topic that nobody seems to want to address in America. However, it is long overdue at the VA, especially since the BVA’s racial and sexist email comments and the impact on any Veteran have been buried in VA concrete and have gotten little or no attention.

This email was received from the, U.S. Department of Veterans Affairs veteransaffairs@public.govdelivery.com, on March 29, 2016 indicating more large companies getting VA contracts and more centralization.

“WASHINGTON – The Department of Veterans Affairs (VA) today announced the award of twelve major contracts that will enhance its ability to deliver timely disability benefits claims decisions to the nation’s Veterans in line with the MyVA initiative. ... A unique feature of this multi-contract award will see the consolidation of the contracts under a single program management initiative, with representation in the central management group from both the Veterans Benefits Administration (VBA) and the Veterans Health Administration (VHA). ...

.... Contracts were awarded to the following firms:

- VetFed Resources, Inc., 2034 Eisenhower Ave., Ste 270, Alexandria, VA - Large Business
- Veterans Evaluation Services, Inc., 3000 Richmond Avenue, Ste 540, Houston, TX - Large Business
- QTC Medical Services, Inc, 21700 Copley Drive, Ste 200, Diamond Bar, CA - Large Business

The contracts are being awarded for a period of 12 months with four, 12-month options, with an aggregate ceiling of \$6.8 billion. The contract will be managed by VA’s Strategic Acquisition Center based in in Frederick, MD.”

AFGE Local 520 submitted FOIA requests for the contracts of 20 companies that were associated with the transformation of the VBA on February 16, 2015. They were assigned FOIA Tracking Numbers 15-03377-F and 15-03380-F on March 16, 2015. On January 14, 2016, we filed an appeal with the VA Office of General Counsel. We believe it is in the public interest and contributes to efficient government to review the effectiveness of these contracts. We have witnessed the failures of some.

On January 28, 2016, we received a response from VBA with the same governmental verbiage, “We apologized for the delay in processing the request. VBA as begun the search for the responsive records. Please be advised the request will take more time to process than we anticipated due to the need for extensive searching, reviewing, redacting and coping. Under the

Open Government Act of 2007, an agency is allowed to exceed the normal processing time of 20 business days for two reasons: (1) There is a need to search for, collect, and review a voluminous amount of records and (2) There is a need to consult with two or more components within the Department of Veterans Affairs (VA). In regard to your request, I will need to do both”

Excerpts from the press release, *The Hayner Hoyt Corporation To Pay \$5 Million To Resolve False Claims Act Liability*, www.justice.gov, March 14, 2016, show a need for the review of government contracts.

- “The settlement resolves allegations that the defendants orchestrated a scheme designed to take advantage of the service-disabled veteran-owned small business program to secure government contracts for a now-defunct company, 229 Constructors LLC, that Gary and Jeremy Thurston created and controlled and subcontracts for Hayner Hoyt and its affiliates. By diverting contracts and benefits intended for our nation’s service-disabled veterans to Hayner Hoyt and its affiliates, the defendants undercut Congress’s intent of encouraging contract awards to legitimate service-disabled veteran-owned small businesses.
- The government’s investigation was triggered by a whistleblower lawsuit filed under the qui tam provisions of the False Claims Act, which allows private persons, known as “relators,” to file civil actions on behalf of the United States and share in any recovery. The relator in this case will receive \$875,000 of the settlement proceeds. The case is docketed with the U.S. District Court for the Northern District of New York under number 14-cv-830.”

Now, let’s continue our weekly review of the heterogeneous VBA workload as of the MMWR dated March 28, 2016. The appeals at the BVA and CAVC are not included in the MMWR which is over **110,000**.

RATING	342,904
Nonrating	281,405
Award Adjustments	395,979
APPEALS	326,521
EP 930	19,650
EP 400	66,986
RIP Total	1,433,445

Hidden claims located at the small Washington DC office. Why?

- Nonrating - 15,156, with an average days pending of 560.3, **March 28, 2016**
- Award Adjustments - 15,564, with **95.6%** over 125 days. **March 28, 2016**

How many provisional ratings are still not completed and are included in EP 930?

The backlog is still on the VBA's roller coaster since FY 16.

WEEK	C&P RB BACKLOG	WEEKLY DIFF
10/05/15	72,623	0
03/07/16	84,838	3,387
03/14/16	83,178	-1,660
03/21/16	80,978	-2,200
03/28/16	80,582	-396
		7,959

PENSION MAINTENANCE CENTERS' CLAIMS

Then there are claims worked at the Pension Maintenance Centers (PMCs). Original and reopened pension claims (EP 180s and 120s) are included in the rating disability claims.

Dates	3/21/2016	3/28/2016	W-DIFF
Other Claims			
137	4,879	5,005	126
150	17,915	18,034	119
297	3,479	3,413	-66
607	5,363	5,312	-51
Total Diff	31,636	31,764	128

EP 137 –Dependency Claims; EP 150 – Income Adjustment; EP 297 - Misc; EP 607 – Due Process

Death claims continue their upward trend since January 12, 2015 as indicated below.

DATES	1/12/2015	3/28/2016	DIFF
140	6,129	9,223	3,094
190	9,631	16,063	6,432
160	15,588	30,469	14,881
165	7,537	10,400	2,863
	38,885	66,155	27,270

*EP 140 numbers included in the disability rating claims.

FORGOTTEN CLAIMS

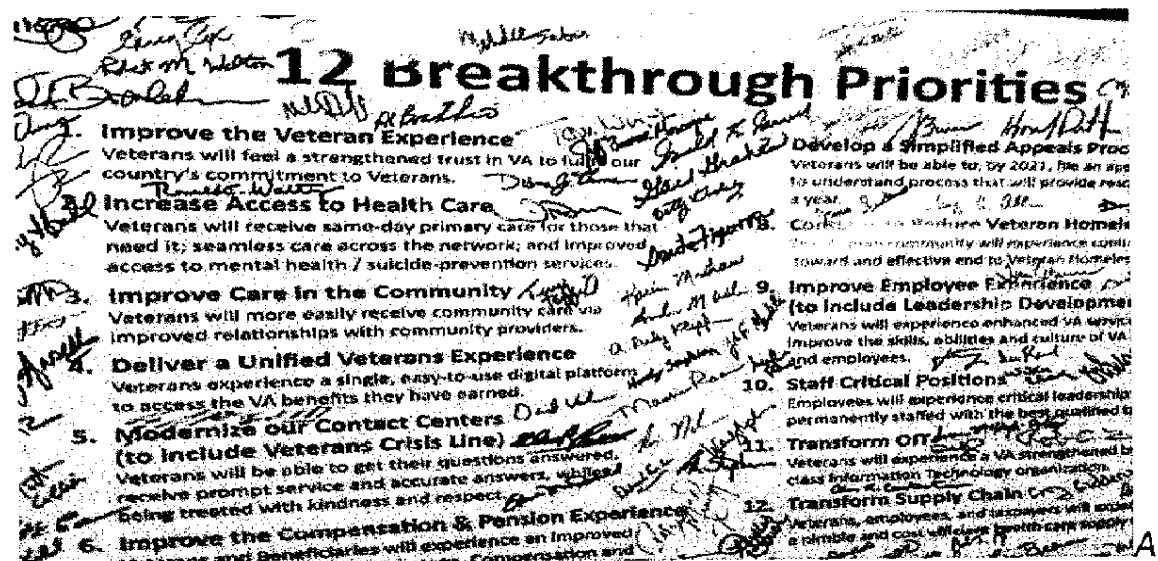
This workload affects benefits withheld by the VBA.

The MMWR dated March 28, 2016 indicates that EP 690 - Cost of Living Adjustments (COLAs) and other reviews stood at "20,301, with 73.2% over 125 days old." Again, these cost of living adjustments must be from 2014 because Veterans did not get a COLA for December 2015.

There are also those informal claims discovered in E-benefits hidden under EP 680 - Review of Hemodialysis related cases/conditions. The total number under EP 680 is 36,616, with 71.5 over 125 days as of the MMWR dated March 28, 2016.

An excerpt from the article, *Improving the Veteran Experience is (Literally) the Top Priority at VA*, [Nextgov](#) | March 23, 2016, provides great optics. Employees were also asked to sign the "ICARE" banner in their VAROs as well, but have witnessed the biggest breach of the core VA values by the very ones who mandated the pledge.

Displayed in the lobby entrance to VA's Washington, D.C., headquarters is a large poster board emblazoned with the image of former President Abraham Lincoln and 12 "breakthrough priorities." The poster board is signed by dozens of VA employees, signaling a renewed commitment – as Lincoln called for in his second inaugural address – "To care for him who shall have borne the battle."



poster in the lobby of VA headquarters showing the agency's 12 "breakthrough priorities."

Excerpts from the Statement Of Charles Susino, Jr. Past National Commander/ Legislative Officer of the American Ex-Prisoners of War, *Before The Committees On Veterans' Affairs U.S. Senate/U.S. House Of Representatives Washington, D.C. March 16, 2016*, are appropriate here.

- Recently, the Secretary outlined to you his plan to transform the VA into a high performance organization. Again, we support his efforts but remind you a year has passed. A year where waiting for medical appointments have decreased only through a one-time costly overtime, but lines are still long. A year where the discussion at the top levels has changed but veterans' experience has not. From our perspective, it is

important to empower and leverage the local management at the VA facilities.
(Emphasis Added)

- I have personally dealt with the New Jersey VA system for decades. While I have had my share of frustrations with the VA system and its bureaucracy, I applaud the leadership and efforts of Director Ken Mizrach. Over the past 2+ decades he is accessible, conducts informative and open meetings with veterans groups, and takes action on issues raised by the veterans' community. Are things perfect in New Jersey, no, but we see improvements largely due to strong leadership inside a challenging VA environment. In this regard, among the other initiatives, the Secretary needs to attract and retain top leaders in these key roles. This local level of management is the face to the veterans, veterans' service organizations, the local community, and policy makers at treatment facilities, impacting staff and patients alike. (Emphasis Added)

It has been a push at the VBA to manage from Washington, DC. The efforts of centralization, regionalizing, and the continual failure of contracting out of the VBA workload have created a local leadership that lacks the skill sets to manage the VBA workload and provide critical feedback for improvement of flawed systems and technology. The VA Chain of Command can be equated to a conduit with no feedback. Despite the beautiful charts and catchy phrases like 'sustainable accountability, "Veterans experience", and the optics of "12 priorities with signature" what has really changed?

Unless there is an independent assessment of VBA operations at the local level coupled with proper staffing, training, and selecting leaders with the skill sets to perform the critical role of managing and leading employees, we will continue to see a VA that will not fulfill its sacred mission – *"To Care For Him Who Shall Have Borne The Battle For His Widow and His Orphan."* Abraham Lincoln

We will continue to be the eyes, ears, and voice for the Veterans and the employees who are called to serve them because the price is "life and death."



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CF:

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