

REPORT OF PANEL OF INQUIRY INTO VETERANS' VOICE OF AMERICA, INC. (VetVOA)

Date: January 9, 2022

To: Board of Directors of Vietnam Veterans of America, Inc. (VVA)

From: Panel of Inquiry

SCOPE

By Motion approved on November 6, 2021 by the Board of Directors of VVA, as supplemented by a Memorandum of Appointment dated November 15, 2021/Revised January 3, 2022 prepared by Patricia A. Harris, General Counsel of VVA, a Panel of Inquiry was formed consisting of John Margowski (VVA Director), Charles Odom (President of VVA Mississippi State Council), and Kerwin Stone (VVA Director), with VVA's General Counsel designated as the principal VVA staff executive responsible for providing resources, directing, planning, administering and supporting the Panel. Copies of the Motion and of the Memorandum of Appointment are included in the Appendix to this Report. The sole purpose of the Panel is to determine the genesis, purposes, sequence of events that lead to the creation of Veterans' Voice of America, Inc. (VetVOA) as a possible adjunct organization of VVA. The Panel is not tasked with making determinations of wrongdoing or disciplinary actions.

APPENDIX

Copies of all pertinent documents reviewed by the Panel (including organizational documents from the formation of VetVOA) are included in the Appendix to this report, as are summaries of the Panel's interviews with persons involved in some manner with the formation of VetVOA; the only witness whose testimony was desired but not available to the Panel was Rebecca Patterson, no longer affiliated with VVA.

CRITICAL DOCUMENTS

Veterans' Voice of America, Inc. was incorporated as a nonprofit corporation under the laws of the State of Delaware on April 10, 2020 through the filing of a Certificate of Incorporation, using VVA's address in Silver Spring, MD as its own principal address of record. The initial officers and directors were all VVA employees and were: Rebecca Patterson, Director/President; Heather Olson, Director/Secretary; and Greg Nembhard, Director/Treasurer. VetVOA was granted exemption from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3) on April 13, 2020. VetVOA was assigned Employer Identification Number 85-0726909 on April 20, 2020. Bylaws were adopted by VetVOA on June 12, 2020, stating that the corporation would be governed by its Board of Directors, consisting of between three and nine members, elected by the Board; the officers of the corporation (President, Vice-President, Secretary, Treasurer) would be elected by the Board. These initial steps were performed by attorney Greg Lam of Kansas City, MO, whose services were arranged by Quentin Butcher, Director of VVA's Household Goods Donations Program (HGDP), and were accomplished at a

cost to VVA of \$7616.94. There is no reference to VVA in any of the incorporation documents. An undated Memorandum of Agreement was drafted by VVA's Veterans Benefits Committee to address the relationship between VetVOA and VVA, and although there is some confusion on the issue, it was never approved or executed by VVA. VetVOA has applied for recognition by the OGC as a veterans' service organization, but the application process generally takes years, and such recognition has not been granted at this time.

GENESIS OF VetVOA

In 2017 Tom Burke (current VVA Vice President) was Chair of the VVA Veterans Benefits Committee. Prior to that time, and continuing to the present day, there was much discussion (and dissent) within VVA about the future of VVA, in view of the fact that VVA members are all aging and at some point will no longer be able to continue operating VVA and, in particular, continuing to fulfill its obligations as a duly recognized veterans service organization handling disability and other claims on behalf of veterans for whom VVA holds powers of attorney (POA's). Mr. Burke was advised by the Office of General Counsel (OGC) that VVA would remain responsible for the handling of all claims (including appeals) for which it holds POA's at the time VVA is forced to close, even though VVA would obviously no longer be around. Some of this discussion gave rise to the thought of forming an affiliated organization to which VVA might be able to transfer its POA's so that they would continue to be handled by persons with ties to VVA; that organization would need to be tax exempt under IRC Section 501(c)(3) so that it could raise funds of its own with which to finance its operations. Some of those early discussions labeled the proposed new organization as "VVA2" as a shorthand way to denote the relationship; however, that proposed name was discarded because a number of VVA members felt that it reflected the formation of a new organization to take the place of VVA. Late in 2019 the name "Advocates for Veterans" was proposed, but it was discarded after only a couple of months. John Riling replaced Tom Burke as Chair of the Veterans Benefits Committee, and continued this line of investigation. In a January 2020 meeting involving then-VVA Treasurer Jack McManus, VVA Director of HGDP Quentin Butcher, and VVA staff attorney Felicia Mullaney, Mr. Butcher noted that in past HGDP marketing programs his clients expressed a distinct approval of the name "Veterans Voices of America" as a charitable organization; since HGDP clients would be a likely source of funding for a new organization, it was decided to use that name as the basis for formation of the new organization. Hence, efforts shifted over to use of the VetVOA name, and the incorporation followed soon thereafter. Then-VVA President John Rowan envisioned VetVOA as being an arms-length circumstance, with VVA's involvement to be expressed through a memorandum of understanding; he thought that VVA's own legal staff could handle the incorporation work.

APPROVAL BY VVA OF VetVOA

The formation of VetVOA was never submitted to the VVA Board of Directors for approval, nor was its proposed use as an affiliate of VVA. Since VetVOA had to be a 501(c)(3)

corporation, it could not be a subsidiary of VVA. The concept has been used before, with the formation of the Veterans Health Council.

PANEL'S FINDINGS AND RECOMMENDATIONS

Findings

1. There is no indication that VVA funds were improperly used in this process.
2. No witness thought that the intentions and purposes behind the formation of VetVOA were anything other than good.
3. The Panel found no witness and no email (or other document) suggesting that the formation of VetVOA was an attempt to either (a) create an organization to replace VVA or (b) change the name of VVA.
4. The Panel found no evidence that VetVOA has taken any action either independently or on behalf of VVA, beyond the formation of the entity and application to be a veterans' service organization.
5. A duly negotiated and executed Memorandum of Agreement between VVA and VetVOA, as envisioned by past-VVA President John Rowan, can be a viable means of VVA exercising limited control over VetVOA to protect VVA's interests.

Recommendation

~~In order to preserve the transparency of operations desired by VVA, the formation documents of VetVOA along with the names of all officers and directors of VetVOA (including any which VVA may wish to nominate) should be submitted for approval to the VVA National Board of Directors along with the proposed Memorandum of Agreement. The VVA BOD should, as part of such an approval process, also specifically address any objections to potential conflicts of interest in the event any of VetVOA's officers and/or directors are also members/employees of VVA.~~

Approved Change: From the evidence received, there is no apparent conflict of interest with the VVA employees serving as VetVOA officers to explore whether there should be a 501c3 organization (i.e., VetVOA) created to handle POAs and Benefits Claims or Appeals. However, if after exploration, the Board of Directors (BOD) recommends and approves the creation of VetVOA to receive any remaining claims/appeals, the BOD should address in the MOU between VVA and VetVOA whether they believe a conflict of interest exists with VVA employees also serving as VetVOA officers/BOD members. To eliminate any potential conflict of interest, the MOU should address any restrictions on these relationships while VVA is still an active and operating organization.

SUBMISSION BY PANEL

The Panel of Inquiry submits this Report to the Board of Directors of VVA as the unanimous result of the Panel's inquiries into the creation of VetVOA.