

EXHIBIT 5

CHISHOLM CHISHOLM & KILPATRICK LTD

ATTORNEYS AT LAW



December 10, 2013

General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

FOIA/Privacy Act Officer
Department of Veterans Affairs
Regional Office
P.O. Box 310909
Newington, CT 06131

91 7199 9991 7031 7484 2147

Re: Jeffrey M. Stien
REDACTED
FREEDOM OF INFORMATION ACT ADMINISTRATIVE APPEAL

To Whom it May Concern:

This letter constitutes an administrative appeal of Department of Veterans Affairs (VA) action concerning a request for documents made under 38 C.F.R. § 1.577 (2007), and the Freedom of Information Act (FOIA), 5 U.S.C. § 552. I, Robert V. Chisholm, am Jeffrey M. Stien's appointed representative to whom he has authorized the release of his Department of Veterans Affairs' records. See VA form 21-22a, executed November 1, 2013.

In a letter dated November 6, 2013, I submitted a FOIA request for documents on behalf of Jeffrey M. Stien, REDACTED, to the Department of Veterans Affairs (RO). See Attachment A. Specifically, I requested a copy of all documents contained in Jeffrey M. Stien's (REDACTED) VA claims file, to include all documents in the right flap, left flap and center flap, AND, anything in the VA Virtual File, Virtual Records, or any electronic system where records about Jeffrey M. Stien, his claim, or his medical history are kept or stored. A certified mail return receipt shows that the RO received this FOIA request for documents on November 8, 2013. See Attachment B. However, to date, I have received no response to this request.

I am seeking production of documents related to my client's VA benefits that are relevant and material to his dispute. The VA is the Agency last known to have particular documents requested that are relevant and material to his appeal. The VA's 20 working days to respond to that request have passed on December 9, 2013. The failure of the VA to respond to this request is a clear violation of 5 U.S.C. § 552(a)(6)(A)(ii), which requires the VA to make a "determination" on the merits of a FOIA request within 20 working days of receipt of such request. Today marks the 21st business day since the RO received my request for documents on behalf of Jeffrey M. Stien. As of today's date, my office has not received any notification from VA as to whether VA will comply with the request or to explain its reasons for any denial in violation of 5 U.S.C. § 552.

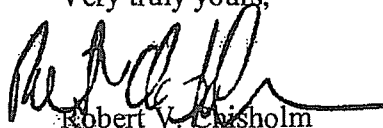
December 10, 2013
Page 2

I am currently contacting FOIA attorneys. Should the VA fail to respond to, or improperly deny this appeal under the Freedom of Information Act, I am prepared to initiate a FOIA suit in the appropriate Federal District Court to compel disclosure of the documents, as well as any reasonable attorney fees and costs to which I might be entitled to under the law or in equity.

If you have any questions, you may contact me by telephone at 401-331-6300.

PLEASE RESPOND TO THE PROVIDENCE, RI ADDRESS ONLY LISTED BELOW.

Very truly yours,




Robert V. Crisholm

sd/vas

Enclosures

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

OMB Control No. 2900-0321
 Respondent Burden: 5 minutes

 Department of Veterans Affairs		1. VA FILE NO(S) (include prefix) REDACTED
APPOINTMENT OF INDIVIDUAL AS CLAIMANT'S REPRESENTATIVE		
Note - If you would prefer to have a service organization assist you with your claim, you may use VA Form 21-22, "Appointment of Veterans Service Organization As Claimant's Representative."		
<p>PRIVACY ACT NOTICE: 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 38, Code of Federal Regulations 1.574 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, 58VA11/22/28, Compensation, Pardon, Education, and Vocational Rehabilitation and Employment Records-VA, published in its Federal Register. Your obligation to respond is voluntary. However, failure to respond provides the requested information could impede the recognition of your representative and/or identification of disability records. Except for information protected by 38 U.S.C. 7332, your representative is not prohibited from redacting records. 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.</p>		
<p>RESPONDENT BURDEN: We need this information to recognize the individuals appointed by claimants to act on their behalf in the preparation, presentation, and protection of claims for VA benefits (38 U.S.C. 5902, 5903, and 5904) and for those individuals to accept appointments. We will also use the information to verify consent for disclosure of VA records to the appointed representative (38 U.S.C. 5701(b) and 7332) Title 38, United States Code, allows us to ask for this information. We estimate that claimants and individuals appointed for purposes of representation will each 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. A valid OMB control number can be located on the OMB Internet Page at www.whitehouse.gov/omb/inventory/ LMBENY.VA.EPA.hhs/VA. If desired, you can call 1-800-327-1090 to get information on where to send comments or suggestions about this form.</p>		
2. NAME OF CLAIMANT (Veteran, guardian, beneficiary, dependent, or next of kin)	3. ADDRESS OF CLAIMANT (No. and street or rural route, city or P.O., State and ZIP code)	
Jeffrey M. Stien	REDACTED	
4. LAST NAME - FIRST NAME - MIDDLE NAME OF VETERAN	5. SERVICE NUMBER(S)	
Stien, Jeffrey M.		
6. BRANCH OF SERVICE		
<input type="checkbox"/> ARMY <input type="checkbox"/> NAVY <input type="checkbox"/> AIR FORCE <input checked="" type="checkbox"/> MARINE CORPS <input type="checkbox"/> COAST GUARD <input type="checkbox"/> OTHER (Specify: _____)		
7A. NAME OF INDIVIDUAL APPOINTED AS CLAIMANT'S REPRESENTATIVE		
ROBERT V. CHISHOLM Chisholm Chisholm & Kilpatrick, One Turks Head Place, Suite 1100, Providence, RI 02903		
7B. INDIVIDUAL IS (check appropriate box)		
<input checked="" type="checkbox"/> ATTORNEY <input type="checkbox"/> AGENT <input type="checkbox"/> INDIVIDUAL PROVIDING REPRESENTATION UNDER SECTION 14.630 (*See required statement below. Signatures are required in Items 7C and 7D)		
<input type="checkbox"/> SERVICE ORGANIZATION REPRESENTATIVE (Specify organization below)		
INDIVIDUALS PROVIDING REPRESENTATION UNDER SECTION 14.630 (Skip to Item 8, if the box for "Individual Providing Representation Under Section 14.630" was not checked in Item 7B)		
The appointment of the individual named in Item 7A (the representative) authorizes the individual to represent the claimant named in Item 2 for a particular claim pursuant to the provisions of 38 CFR 14.630. By our signatures below, we, the representative and the claimant, attest that no compensation will be charged or paid for the individual named in Item 7A.		
7C. SIGNATURE OF REPRESENTATIVE NAMED IN ITEM 7A		
N/A		
7D. SIGNATURE OF CLAIMANT NAMED IN ITEM 2		
N/A		
8. ADDRESS OF INDIVIDUAL APPOINTED AS CLAIMANT'S REPRESENTATIVE (No. and street or rural route, city or P.O., State, and ZIP code)		
N/A		

9. AUTHORIZATION FOR REPRESENTATIVE'S ACCESS TO RECORDS PROTECTED BY SECTION 7332, TITLE 38, U.S.C.
 Unless I check the box below, I do not authorize VA to disclose to the individual named in Item 7A any records that may be in my file relating to treatment for drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia.

I authorize the VA facility having custody of my VA claimant records to disclose to the individual named in Item 7A all treatment records relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia. Redisclosure of these records by my representative, other than to VA or the Court of Appeals for Veterans Claims, is not authorized without my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I revoke this authorization by filing a written revocation with VA; or (2) I revoke the appointment of the individual named in Item 7A, either by explicit revocation or the appointment of another representative.

10. LIMITATION OF CONSENT. My consent in Item 9 for the disclosure of records relating to treatment for drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV), or sickle cell anemia is limited as follows:

NO Limitation

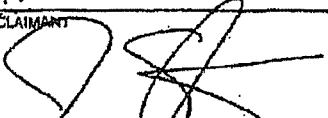
11. AUTHORIZATION FOR REPRESENTATIVE TO ACT ON CLAIMANT'S BEHALF TO CHANGE CLAIMANT'S ADDRESS
 Unless I check the box below, I do not authorize the individual named in Item 7A to act on my behalf to change my address in my VA records.

I authorize the individual named in Item 7A to act on my behalf to change my address in my VA records. This authorization does not extend to any other individual without my further written consent. This authorization will remain in effect until the earlier of the following events: (1) I revoke this authorization by filing a written revocation with VA; or (2) I revoke the appointment of the individual named in Item 7A, either by explicit revocation or the appointment of another representative. Please see Conditions of Appointment.

SIGN HERE **CONDITIONS OF APPOINTMENT**

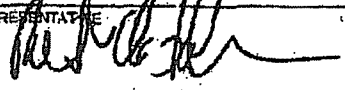
I, the veteran named in Item 2, hereby appoint the individual named in Item 7A as my representative to prepare, present, and prosecute my claims for any and all benefits from the Department of Veterans Affairs (VA) based on the service of the veteran named in Item 4. If the individual named in Item 7A is an accredited agent or attorney, the scope of representation provided before VA may be limited by the agent or attorney as indicated below in Item 15. If the individual indicated in Item 7A is providing representation under 38 CFR 14.630, such representation is limited to a particular claim only. I authorize VA to release any and all of my records (other than as provided in Items 3 and 10) to the individual appointed as my representative, and if the individual in Item 7A is an accredited agent or attorney, this authorization includes the following individually named administrative employees of my representative: Zachary M. Stolz; Landon E. Overby; Jessica L. Cleary; Jonathan W. Greene; Kerry L. Baker

Signed and accepted subject to the foregoing conditions.

12. SIGNATURE OF CLAIMANT 	13. DATE OF SIGNATURE 11/1/2013	14. CLAIMANT'S RELATIONSHIP TO VETERAN (If other than the veteran)
--	------------------------------------	---

15. LIMITATIONS ON REPRESENTATION - AGENTS OR ATTORNEYS ONLY (Unless limited by an agent or attorney, this power of attorney retains all presently existing powers of attorney)

No Limitation.

16. SIGNATURE OF REPRESENTATIVE 	17. DATE OF SIGNATURE 11/6/2013
--	------------------------------------

FEEs: Section 5904, Title 38, United States Code, contains provisions regarding fees that may be charged, allowed, or paid for services of agents or attorneys in connection with a proceeding before the Department of Veterans Affairs with respect to benefits under laws administered by the Department.

VA Form 21-22a, JUN 2009

Attachment A

CHISHOLM CHISHOLM & KILPATRICK LTD

ATTORNEYS AT LAW



November 6, 2013

Department of Veterans Affairs
Regional Office
P.O. Box 310909
Newington, CT 06131

Re: Jeffrey Stien
C No. REDACTED
REQUEST FOR DOCUMENTS UNDER 38 C.F.R. 1.577 AND FOIA 5 U.S.C. 552

91 7199 9991 7031 7487 5213

To Whom It May Concern:

This is a request for documents under 38 C.F.R. 1.577 (2007) and the Freedom of Information Act (FOIA), 5 U.S.C. 552, on behalf of Jeffrey Stien. I, Robert V. Chisholm, am Mr. Stien's appointed representative to whom he has authorized the release of his Department of Veterans Affairs' records. See VA Form 21-22a, executed November 6, 2013. Please post my appointment in the Claims File C-File), as well as all electronic records (SHARE, VACOLS, CAPRI, Virtual VA and VBMS) pertaining to the veteran for our access and so I may receive a copy of any correspondence sent to the veteran.

I hereby request a copy of all documents contained in Mr. Stien's VA claims folder, to include all documents in the right flap, left flap and center flap. **PLEASE ALSO INCLUDE ALL VHA MEDICAL RECORDS STORED IN THE VIRTUAL VA EFOLDER AS WELL AS ANY OTHER RECORDS STORED IN THE VIRTUAL VA FOLDER FOR THIS VETERAN.** Please forward the copied documents directly to me **TO THE PROVIDENCE, RI ADDRESS ONLY LISTED BELOW.** I am requesting these documents so that I may better assist Mr. Stien with his claim for VA benefits. As provided in the FOIA, please respond to this request within twenty (20) business day. I may be contacted at 401-331-6300 if there are any questions

Thank you for your cooperation in this matter.

Very truly yours,

Robert V. Chisholm

/jlp

Enclosures

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Attachment B

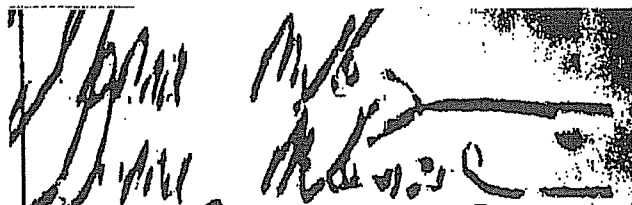


Date Produced: 11/11/2013

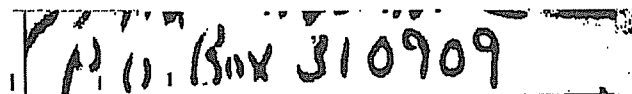
Chisholm Chisholm & Kilpatrick Ltd:

The following is the delivery information for Certified Mail™ item number 7199 9991 7031 7487 5213. Our records indicate that this item was delivered on 11/08/2013 at 08:51 a.m. in NEWINGTON, CT 06111. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 0809087 10259711stien j