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# EXHIBIT 31

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CONFIDENTIAL

1 UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF CALIFORNIA 3 OAKLAND DIVISION 4 5 VIETNAM VETERANS OF AMERICA, et al., 6 7 Plaintiffs, 8 vs. NO. CV 09 0037-CW CENTRAL INTELLIGENCE 9 VOLUME III AGENCY, et al., 10 11 Defendants. 12 13 CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER 14 15 CONTINUED VIDEOTAPED DEPOSITION OF DAVID ABBOT 16 August 23, 2012 17 9:11 a.m. 18 United States Courthouse 19 75 Spring Street SW, Suite 600 20 21 Atlanta, Georgia 22 REPORTED BY: 23 Jennifer A. Davis, RPR, CRR, CCR-2496 24 25 PAGES 432 - 560 Page 432

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1	Does that make sense?	10:37:39
2	MR. PATTERSON: This will be 859.	10:37:56
3	(EXHIBIT 859 MARKED)	10:38:08
4	BY MR. PATTERSON:	10:38:08
5	Q. What's just been marked as Exhibit 859 is	10:38:16
6	an e-mail from David Abbot to Melissa Hill dated	10:38:18
7	March 6th, 2006. It's produced at DVA095 003342.	10:38:22
8	Do you recognize this e-mail, Mr. Abbot?	10:38:33
9	A. Not specifically, but I recognize it as	10:38:38
10	one of those that I sent to Muskogee in response to	10:38:40
11	a claim requesting verification.	10:38:48
12	Q. So you did send this e-mail?	10:38:50
13	A. (Nods affirmatively)	10:38:52
14	Q. Yes?	10:38:53
15	A. Yes.	10:38:53
16	Q. And in the middle of that paragraph so	10:38:54
17	here you write, "Here is the response from DoD." In	10:38:58
18	the middle of that paragraph, four lines down, says,	10:39:02
19	"Individual has no records to verify this claim as	10:39:04
20	they were burned in the archives fire. He does	10:39:09
21	submit a 'buddy statement,' which does support some	10:39:12
22	of the service member's claims, but never states	10:39:17
23	that the gas chamber was filled with mustard	10:39:20
24	agents." And the last sentence says, "We do not	10:39:23
25	consider the service member as being exposed to	10:39:26
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1	mustard agent."	10:39:29
2	So in this instance, even though the	10:39:33
3	service member had a buddy statement, that wasn't	10:39:35
4	sufficient for the DoD to verify their	10:39:38
5	participation?	10:39:40
6	MS. FAREL: Objection to the extent that	10:39:41
7	you mischaracterized the document and calls for	10:39:42
8	speculation.	10:39:45
9	A. Okay. Ask that again.	10:40:00
10	BY MR. PATTERSON:	10:40:02
11	Q. Sure. So in this instance, even though	10:40:03
12	the service member had a buddy statement, that was	10:40:05
13	not sufficient for the DoD to verify their	10:40:09
14	participation?	10:40:13
15	MS. FAREL: Objection. Vague. Calls for	10:40:15
16	speculation.	10:40:18
17	A. Well, DoD has specified that there was no	10:40:23
18	specific language referring to a chamber exposure.	10:40:27
19	It would be speculative to say had the buddy	10:40:32
20	statement included those statements, would they	10:40:35
21	would that have changed their mind. I don't know.	10:40:38
22	In all of the instances where something	10:40:43
23	went over to DoD and they responded, the full	10:40:46
24	context of their response was what was sent to the	10:40:51
25	regional office so that they would be able to make	10:40:54
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1	the best determination from for their claimant.	10:40:56
2	One could speculate that maybe it would	10:41:02
3	have been helpful if the buddy statement had had	10:41:06
4	more information. I don't know.	10:41:09
5	BY MR. PATTERSON:	10:41:13
6	Q. Ordinarily, in claims adjudications a	10:41:14
7	veteran can prove their service-related incident	10:41:20
8	through a buddy statement. Right?	10:41:21
9	MS. FAREL: Objection. Lack of	10:41:25
10	foundation.	10:41:26
11	A. I don't know if I can go with	10:41:27
12	"ordinarily." We do accept as legitimate evidence	10:41:27
13	buddy statements. But whether a buddy statement	10:41:32
14	ordinarily results in being significant enough to	10:41:37
15	grant service connection is a whole separate	10:41:41
16	question.	10:41:43
17	BY MR. PATTERSON:	10:41:49
18	Q. But in this instance a buddy statement was	10:41:50
19	not sufficient to	10:41:51
20	A. Correct.	10:41:52
21	Q verify?	10:41:53
22	A. That's correct.	10:41:55
23	MS. FAREL: Make sure you let him finish	10:41:56
24	his question for the record.	10:41:57
25		
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1	BY MR. PATTERSON:	10:42:01
2	Q. So his claim would have been denied then?	10:42:01
3	MS. FAREL: Objection. Calls for	10:42:03
4	speculation. Lack of foundation.	10:42:03
5	A. I'm sure it was.	10:42:11
б	BY MR. PATTERSON:	10:42:13
7	Q. And before we have the sentence about the	10:42:14
8	buddy statement, it says, "Individual has no records	10:42:17
9	to verify this claim as they were burned in the	10:42:20
10	archives fire."	10:42:22
11	What is this archives fire?	10:42:24
12	MS. FAREL: Objection. Calls for	10:42:27
13	speculation. Lack of foundation.	10:42:28
14	A. I presume that they are referring to the	10:42:30
15	fire that we had at I say "we had" the fire	10:42:33
16	that the National Personnel Records Center had in	10:42:37
17	1950 whatever it was. I don't remember the year.	10:42:42
18	BY MR. PATTERSON:	10:42:47
19	Q. So this particular service member's	10:42:47
20	records were destroyed in the archives fire?	10:42:51
21	MS. FAREL: Objection. Calls for	10:42:55
22	speculation.	10:42:56
23	BY MR. PATTERSON:	10:42:59
24	Q. But despite that fact that his records	10:42:59
25	were destroyed in the archives fire, the DoD didn't	10:43:02
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1	CERTIFICATE
2	STATE OF GEORGIA:
3	COUNTY OF COBB:
4	
5	I hereby certify that the foregoing
6	transcript was taken down, as stated in the caption,
7	and the colloquies, questions, and answers were
8	reduced to typewriting under my direction; that the
9	transcript is a true and correct record of the
10	evidence given upon said proceeding.
11	I further certify that I am not a relative
12	or employee or attorney of any party, nor am I
13	financially interested in the outcome of this
14	action.
15	This the 4th day of September, 2012.
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21	JENNIFER A. DAVIS, RPR, CRR, CCR-2496
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