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B-126362, Feb. 21, 1956

Number: B-126362

Date: 1956-02-21

B-126362, FEB. 21, 1956

TO THE HONORABLE SECRETARY OF STATE:

REFERENCE IS MADE TO LETTER DATED DECEMBER 2, 1955, FROM THE ASSISTANT SECRETARY-CONTROLLER, REQUESTING AUTHORITY TO REIMBURSE MR. ALOYSIUS J. WARNECKI, A UNITED STATES DISBURSING OFFICER, FORMERLY AT SEOUL, KOREA, IN THE AMOUNT OF $63.39, WHICH SUM REPRESENTS THE VALUE OF RESTITUTION MADE ON MR. WARNECKI ON ACCOUNT OF THE PHYSICAL LOSS OF FUNDS IN THE MAIL.

THE RECORD SHOWS THAT MR. WARNECKI, ON FEBRUARY 11, 1954, DELIVERED AN ENVELOPE CONTAINING A PAYROLL AND HWAN 11,410 TO THE ARMY POST OFFICE FOR DELIVERY TO THE UNITED STATES INFORMATION SERVICE ON THE ISLAND OF CHEJU, WHICH ENVELOPE WAS APPARENTLY LOST IN THE MAILS. MR. WARNECKI WAS OBLIGED TO PREPARE A COPY OF THIS PAYROLL AND TO PROVIDE ANOTHER HWAN 11,410 WITH WHICH TO PAY THE EMPLOYEES INVOLVED, WHICH ACTION RESULTED IN A CASH SHORTAGE IN HIS ACCOUNT WITH THE UNITED STATES BY THIS AMOUNT.

A CLAIM FOR THE RESTITUTION OF THE HWAN WAS FILED WITH THE UNITED STATES ARMY, FAR EAST, FOREIGN CLAIMS COMMISSION, WHICH COMMISSION DECLINED TO PROCESS THE CLAIM FOR THE REASON THAT FUNDS OF ONE GOVERNMENT AGENCY ARE NOT AVAILABLE FOR THE PAYMENT OF CLAIMS FOR DAMAGE OR LOSS OF THE PROPERTY OF ANOTHER GOVERNMENT AGENCY. HOWEVER, THE COMMISSION STATED AN OPINION AS FOLLOWS:

"THE LOSS OF REGISTERED PARCEL NO. 2855 WAS CAUSED BY MILITARY PERSONNEL OF THE DEPARTMENT OF THE ARMY WHILE ACTING WITHIN THE SCOPE OF THEIR EMPLOYMENT AND WAS NOT CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENCE OR WRONGFUL ACT ON THE PART OF THE CLAIMANT, HIS AGENT OR EMPLOYEE.'

AT THE TIME OF MR. WARNECKI'S TRANSFER FROM SEOUL TO THE HAGUE, NETHERLANDS, HE ADJUSTED THE DEFICIENCY IN HIS OFFICIAL FUNDS BY AT A COST EQUIVALENT TO $63.39 UNITED STATES CURRENCY. THE TREASURY DEPARTMENT REFUSED TO ADJUST THE CLAIM FOR RESTITUTION OF THE AMOUNT UNDER THE GOVERNMENT LOSSES IN SHIPMENT ACT, 5 U.S.C. L34 AND FOLLOWING SECTIONS, ON THE GROUND THAT RESTITUTION OF THE AMOUNT HAVING BEEN MADE FROM MR. WARNECKI'S PERSONAL FUNDS, THERE WAS NO LOSS WHICH PROPERLY COULD BE ADJUSTED UNDER THAT ACT.

YOUR DEPARTMENT HAS DETERMINED THAT THIS LOSS OCCURRED WITHOUT FAULT OR NEGLIGENCE ON HIS PART AND AUTHORIZATION IS REQUESTED UNDER PUBLIC LAW 334, 84TH CONGRESS, APPROVED AUGUST 9, 1955, 69 STAT. 626, TO REIMBURSE MR. WARNECKI FOR THE AMOUNT OF $63.39 PAID BY HIM IN RESTORATION OF THE LOST FUNDS.

UNDER THE CIRCUMSTANCES AS REPORTED, THIS OFFICE CONCURS IN THE DETERMINATION

MADE BY YOUR DEPARTMENT THAT THE LOSS OCCURRED WHILE MR. WARNECKI WAS ACTING IN THE DISCHARGE OF HIS OFFICIAL DUTIES WITHOUT FAULT OR NEGLIGENCE ON HIS PART. ACCORDINGLY, AND PURSUANT TO THE AUTHORITY CONTAINED IN THE ACT OF AUGUST 9, 1955, PUBLIC LAW334, 84TH CONGRESS, 69 STAT. 626, YOUR DEPARTMENT IS AUTHORIZED TO REIMBURSE MR. WARNECKI THE AMOUNT INVOLVED FROM ANY APPROPRIATION OR FUND OF THE UNITED STATES INFORMATION SERVICE AVAILABLE FOR THE ACTIVITY IN CONNECTION WITH WHICH THE LOSS OCCURRED.