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B-139992, Aug. 31, 1959

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B-139992, AUG. 31, 1959

TO THE SECRETARY OF THE INTERIOR:

BY LETTER OF JUNE 18, 1959, THE ADMINISTRATIVE ASSISTANT SECRETARY OF THE INTERIOR REQUESTS OUR DECISION CONCERNING THE DISPOSITION OF THE PROCEEDS OF AN INSURANCE POLICY UNDER WHICH THE BUREAU OF INDIAN AFFAIRS HAD BEEN DESIGNATED AS BENEFICIARY. THE INSURED, MR. DANIEL M. BAHE, DECEASED, WAS A NAVAJO INDIAN WHO HAD BEEN RELOCATED FROM THE NAVAJO INDIAN AGENCY TO SAN JOSE, CALIFORNIA. MR. BAHE HAD TAKEN OUT THE POLICY WHILE EMPLOYED IN CALIFORNIA AND NAMED THE BUREAU AS BENEFICIARY. THE BUREAU WAS NOT INFORMED OF THIS ACTION.

IT IS ADMINISTRATIVELY CONTENDED THAT, IN VIEW OF THE INDIAN'S STATUS AS A WARD OF THE GOVERNMENT, THE BUREAU OF INDIAN AFFAIRS WAS DESIGNATED AS BENEFICIARY MERELY TO HOLD THE PROCEEDS OF THE POLICY FOR THE ESTATE OF THE DECEASED AND THAT THERE IS NO EVIDENCE THAT THE DECEDENT INTENDEDA GIFT TO THE GOVERNMENT.

IT IS REPORTED THAT THE DECEDENT'S FATHER APPEARS TO BE THE ONLY HEIR TO THE ESTATE AND OUR CONCURRENCE IS REQUESTED IN THE PROPOSED DISPOSITION OF THE PROCEEDS OF THE POLICY IN FAVOR OF THE DECEDENT'S FATHER.

THE RECORD CONTAINS NOTHING OF EVIDENTIARY VALUE TO CONTRADICT THE EXPRESS DESIGNATION OF BENEFICIARY STATED IN THE INSURANCE POLICY. THEREFORE, WE CANNOT AGREE THAT THE ADMINISTRATIVELY PROPOSED DISPOSITION IS IN ACCORD WITH THE INTENT OF THE DECEDENT.

SINCE WE ARE AWARE OF NO STATUTORY AUTHORITY UNDER WHICH THE AMOUNT INVOLVED MAY BE RECEIVED BY THE BUREAU OF INDIAN AFFAIRS FOR ITS OWN USE, WE ARE OBLIGED TO HOLD THAT THE PROCEEDS OF THE INSURANCE POLICY INVOLVED, WERE RECEIVED BY THE BUREAU ON BEHALF OF THE UNITED STATES AND, THEREFORE, ARE PROPERLY FOR DEPOSIT INTO THE TREASURY AS MISCELLANEOUS RECEIPTS PURSUANT TO SECTION 3617, REVISED STATUTES, 31 U.S.C. 484.

ADDITIONALLY, THERE REMAINS FOR CONSIDERATION THE MATTER OF THE AMOUNT DEDUCTED FROM THE INSURANCE PROCEEDS FOR THE PAYMENT OF THE DECEDENT'S FUNERAL EXPENSES. UNDER THE LAWS OF CALIFORNIA--- THE STATE WHEREIN THE CONTRACT OF INSURANCE WAS EXECUTED--- IT HAS BEEN HELD THAT, IN THE ABSENCE OF FRAUD OR A STATUTE TO THE CONTRARY, LIFE INSURANCE TAKEN OUT BY THE INSURED IN FAVOR OF ANOTHER IS PAYABLE TO THE NAMED BENEFICIARY AS AGAINST THE INSURED'S CREDITORS AND PERSONAL REPRESENTATIVES. COMEGYS V. NATIONAL UNION ASSUR. SOC., 39 P.2D 861. FURTHERMORE THE PROVISIONS OF 31 U.S.C. 484 REQUIRE THAT THE GROSS AMOUNT OF ALL MONEYS RECEIVED FROM WHATEVER SOURCE FOR THE USE OF THE UNITED STATES SHALL BE PAID INTO THE TREASURY OF THE UNITED STATES AS MISCELLANEOUS RECEIPTS WITHOUT ANY

ABATEMENT OR REDUCTION ON ACCOUNT OF SALARY, FEES, COSTS, CHARGES, EXPENSES, OR CLAIM OF ANY DESCRIPTION WHATEVER.

THE RECORD FAILS TO SHOW WHETHER THERE WERE ANY ASSETS IN THE DECEDENT'S ESTATE FROM WHICH THE FUNERAL EXPENSES COULD HAVE BEEN PAID. SINCE THE PREMIUMS ON THE POLICY WERE PAID BY THE DECEASED, AND IN VIEW OF THE COMPLICATIONS NECESSARILY ARISING IN CONNECTION WITH ANY ATTEMPTS TO RECOUP THE AMOUNT PAID AS FUNERAL EXPENSES, WE WILL NOT INSIST UPON RECOVERY OF THE AMOUNT PAID AS FUNERAL EXPENSES, BUT SUCH EXPENSES SHOULD NOT BE PAID IN FUTURE SIMILAR CASES, IF ANY.