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B-141838, Feb. 8, 1960

Number: B-141838

Date: 1960-02-08

B-141838, FEB. 8, 1960

TO MR. W. R. WILSON, DIRECTOR, BUDGET AND FISCAL OFFICE, OFFICE OF CIVIL AND DEFENSE MOBILIZATION:

THIS REFERS TO YOUR LETTER OF DECEMBER 18, 1959, CONCERNING NOTICE OF EXCEPTION NO. 000395, AUGUST 28, 1959, IN THE AMOUNT OF $186.20 TAKEN BY OUR OFFICE IN THE AUDIT OF VOUCHER NO. OD 915-58-BC CERTIFIED BY CLARA D. NOBLE, AUTHORIZED CERTIFYING OFFICER, AND PAID IN THE JANUARY 1958 ACCOUNT OF W. WELDON, SYMBOL 9007. ALSO, YOU SAY THAT EFFORTS TO COLLECT THE SUM OF $439.42 REPRESENTING THE BALANCE DUE THE GOVERNMENT ON TRAVEL ADVANCES MADE TO MR. HERMAN J. ROSSI, THE EMPLOYEE CONCERNED IN THE ABOVE NOTICE OF EXCEPTION, HAVE BEEN UNSUCCESSFUL.

THE TOTAL INDEBTEDNESS, $625.62 ($186.20 PLUS $439.42), HAS BEEN REPORTED BY YOU TO OUR CLAIMS DIVISION AS AN UNCOLLECTIBLE DEBT. YOU REQUEST THE CERTIFYING OFFICER BE RELIEVED OF ACCOUNTABILITY UPON THE BASIS THAT ADMINISTRATIVE EFFORTS TO COLLECT THE DEBT FROM THE PAYEE HAVE BEEN UNSUCCESSFUL.

THE BASIS AND AUTHORITY FOR THE COMPTROLLER GENERAL TO GRANT RELIEF TO CERTIFYING OFFICERS IS CONTAINED IN THE ACT OF DECEMBER 29, 1941, 31 U.S.C. 82E, WHICH PROVIDES IN PERTINENT PART AS FOLLOWS:

"THAT THE COMPTROLLER GENERAL MAY, IN HIS DISCRETION, RELIEVE SUCH CERTIFYING OFFICER OR EMPLOYEE OF LIABILITY FOR ANY PAYMENT OTHERWISE PROPER WHENEVER HE FINDS (1) THAT THE CERTIFICATION WAS BASED ON OFFICIAL RECORDS AND THAT SUCH CERTIFYING OFFICER OR EMPLOYEE DID NOT KNOW, AND BY REASONABLE DILIGENCE AND INQUIRY COULD NOT HAVE ASCERTAINED, THE ACTUAL FACTS, OR (2) THAT THE OBLIGATION WAS INCURRED IN GOOD FAITH, THAT THE PAYMENT WAS NOT CONTRARY TO ANY STATUTORY PROVISION SPECIFICALLY PROHIBITING PAYMENTS OF THE CHARACTER INVOLVED, AND THAT THE UNITED STATES HAS RECEIVED VALUE FOR SUCH PAYMENT.'

WE HAVE NO AUTHORITY TO GRANT RELIEF TO CERTIFYING OFFICERS OTHER THAN UPON THE BASIS PROVIDED IN THE ABOVE-QUOTED STATUTE. THE GROUNDS RELIED UPON FOR RELIEF (OTHER THAN UNCOLLECTIBILITY OF THE DEBT) OR THE AMELIORATING CIRCUMSTANCES UPON WHICH THE CONGRESS WOULD BE URGED TO GRANT RELIEF HAVE NOT BEEN SHOWN IN YOUR REQUEST FOR RELIEF BY OUR OFFICE. THEREFORE, THERE IS NO EVIDENCE IN THE RECORD UPON WHICH WE COULD BASE THE FINDING REQUIRED BY THE STATUTE. SINCE THE UNCOLLECTIBILITY OF THE DEBT OR ERRONEOUS PAYMENT IS NOT A BASIS FOR RELIEF UNDER THE ACT, WE HAVE NO ALTERNATIVE ON THE PRESENT RECORD BUT TO DENY RELIEF AND TO CONTINUE THE CUSTOMARY PROCEDURES AGAINST THE CERTIFYING OFFICER.