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B-156724, Jul. 7, 1965

Number: B-156724

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TO MR. JAMES I. ROBERTSON, JR., EXECUTIVE DIRECTOR:

THIS IS IN REFERENCE TO YOUR LETTER OF APRIL 21, 1965, REQUESTING THAT OUR OFFICE RECONSIDER THOSE PORTIONS OF NOTICE OF EXCEPTION NO. 300084 AND NOTICE OF EXCEPTION NO. 300085, BOTH DATED DECEMBER 4, 1962. THE EXCEPTIONS WERE TAKEN ON THE BASIS OF THE DECISION OF THIS OFFICE, 37 COMP. GEN. 360, AND RELATE TO THE PURCHASE OF CHRISTMAS CARDS BY THE COMMISSION WITH APPROPRIATED FUNDS.

IT IS STATED IN YOUR LETTER THAT IT IS BELIEVED THAT THE STATUTORY AUTHORITY OF THE COMMISSION IS BROAD ENOUGH TO COVER THE QUESTIONED PURCHASES. THE AUTHORITY RELIED UPON IS SECTION 5 (B) OF PUB.L. 85 305, APPROVED SEPTEMBER 7, 1957, 71 STAT. 626, WHICH PROVIDES:

"THE COMMISSION, TO SUCH EXTENT AS IT FINDS TO BE NECESSARY, MAY, WITHOUT REGARD TO THE LAWS AND PROCEDURES APPLICABLE TO FEDERAL AGENCIES, PROCURE SUPPLIES, SERVICES, AND PROPERTY AND MAKE CONTRACTS, EXPEND IN FURTHERANCE OF THIS RESOLUTION FUNDS DONATED OR FUNDS RECEIVED IN PURSUANCE OF CONTRACTS HEREUNDER, AND MAY EXERCISE THOSE POWERS THAT ARE NECESSARY TO ENABLE IT TO CARRY OUT EFFICIENTLY AND IN THE PUBLIC INTERESTS THE PURPOSES OF THIS RESOLUTION.'

IT IS ALSO POINTED OUT IN YOUR LETTER THAT IN EQUALLY BROAD LANGUAGE THE STATUTE STATES THE PURPOSES AND DUTIES OF THE COMMISSION--- IT WAS SET UP "IN ORDER TO PROVIDE FOR APPROPRIATE AND NATIONWIDE OBSERVANCES AND THE COORDINATION OF CEREMONIES" (SEC. 1 (A) (, AND WAS DIRECTED, IN PREPARING THIS "OVERALL PROGRAM," TO "GIVE DUE CONSIDERATION TO ANY SIMILAR AND RELATED PLANS ADVANCED BY STATE, CIVIC, PATRIOTIC, HEREDITARY, AND HISTORICAL BODIES, * * *" (SEC. 2), AND THAT IN EMPHASIS OF THIS DIRECTIVE, SECTION 5 (A) EXPRESSLY AUTHORIZES THE COMMISSION "TO COOPERATE WITH STATE, CIVIC, PATRIOTIC, HEREDITARY, AND HISTORICAL GROUPS * * *.' YOU SAY THAT IT WAS PRECISELY IN CONNECTION WITH THIS DUTY AND THIS AUTHORIZATION THAT THE COMMISSION PURCHASED AND MAILED THE CHRISTMAS CARDS IN QUESTION. THE CARDS, IT IS SAID, WERE MAILED TO ORGANIZATIONS SUCH AS MENTIONED ABOVE, AND SUCH MAILING WAS AN INTEGRAL PART OF EFFORTS TO ENLIST THE ACTIVE PARTICIPATION OF THE ORGANIZATIONS IN THE CENTENNIAL. IT IS FURTHER REPORTED THAT THE CARDS WERE IN NO SENSE PERSONAL AS THEY BORE THE IMPRINT OF THE COMMISSION'S SEAL AND THE COMMISSION'S NAME AND IN NO CASE DID THE NAME OF ANY MEMBER OF THE COMMISSION OR ITS STAFF APPEAR ON THEM. FOR THE FOREGOING REASONS YOU SUGGEST THAT THE CHRISTMAS CARDS WERE A PROPER CHARGE AGAINST THE FUNDS OF THE COMMISSION.

QUESTIONS CONCERNING THE EXPENDITURE OF PUBLIC MONEYS FOR GREETING CARDS HAVE BEEN PRESENTED TO THIS OFFICE FOR MANY YEARS, AND THE DECISIONS RENDERED IN

RESPONSE THERETO HAVE HELD THAT, IN THE ABSENCE OF STATUTORY AUTHORITY, APPROPRIATED FUNDS ARE NOT AVAILABLE FOR THE PURCHASE OF GREETING CARDS. THE REASON ASSIGNED FOR SUCH HOLDING IS THAT THE COST OF GREETING CARDS IS A PERSONAL EXPENSE AND NOT CHARGEABLE TO PUBLIC FUNDS IN THE ABSENCE OF SPECIFIC AUTHORITY BY STATUTE. SEE 37 COMP. GEN. 360, AND DECISIONS CITED THEREIN; 7 COMP. GEN. 481. THE CIRCUMSTANCES RELATED IN YOUR LETTER ARE SUBSTANTIALLY SIMILAR TO THOSE CONSIDERED IN 37 COMP. GEN. 360, WHERE, AS IN THE INSTANT CASE, THE CARDS DID NOT BEAR THE NAMES OF OFFICERS OR EMPLOYEES SENDING THE CARDS, AND THE PURPOSE OF SENDING THE CARDS WAS CLEARLY TO SECURE THE RECIPIENTS' GOOD-WILL AND COOPERATION. SUCH FACTORS WERE NOT VIEWED AS SUFFICIENT TO OVERCOME THE LONG-STANDING RULE OF THE ACCOUNTING OFFICERS WHICH PRECLUDES THE PURCHASE OF CHRISTMAS GREETING CARDS UNLESS AUTHORIZED BY SPECIFIC STATUTORY AUTHORITY. WE HAVE EXAMINED THE PROVISIONS CONTAINED IN THE AUTHORIZING LEGISLATION CITED IN YOUR LETTER, AND THE ACTS APPROPRIATING FUNDS FOR USE OF THE COMMISSION DURING THE PERIOD INVOLVED AND NOTHING WAS FOUND WHICH AUTHORIZES THE QUESTIONED EXPENDITURES. ACCORDINGLY, AND IN VIEW OF THE LONG-STANDING RULE OF THE ACCOUNTING OFFICERS, WE CONCLUDE THAT THE REASONS ADVANCED IN YOUR LETTER ARE INSUFFICIENT TO WARRANT THE USE OF APPROPRIATED FUNDS FOR THE PROCUREMENTS AGAINST WHICH THE EXCEPTIONS HAVE BEEN TAKEN.