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[Response to Request for Relief for Army Finance and Accounting Officer]

Number: B-217668

Date: 1986-09-12

B-217668, SEP 12, 1986, OFFICE OF GENERAL COUNSEL

CERTIFYING OFFICERS - RELIEF - ERRONEOUS PAYMENTS - BASIS FOR RELIEF DIGEST: ACCOUNTING AND FINANCE OFFICER DENIED RELIEF FOR LOSS RESULTING FROM IMPROPER PAYMENT OF IMPROPERLY CERTIFIED PURCHASE REQUEST. ALTHOUGH OFFICER MIGHT BE EXPECTED TO QUESTION CERTIFICATION OF PAYMENT FOR BEER WITH APPROPRIATED FUNDS, UNDER CIRCUMSTANCES OF THE CASE, STAFF TO WHOM APPROVAL AUTHORITY WAS DELEGATED WOULD NOT NECESSARILY QUESTION CERTIFICATION. WE ARE UNABLE TO DETERMINE FROM THE RECORD PRESENTED TO US WHETHER OFFICER MAINTAINED AND IMPLEMENTED ADEQUATE SYSTEM OF PAYMENT PROCEDURES AND CONTROLS, AND ARE UNABLE TO GRANT RELIEF AT THIS TIME.

MR. CLYDE E. JEFFCOAT:

PRINCIPAL DEPUTY COMMANDER

U.S. ARMY FINANCE AND ACCOUNTING CENTER

INDIANAPOLIS, INDIANA 46249-0001

THIS IS IN REPLY TO YOUR REQUEST THAT WE RELIEVE LIEUTENANT COLONEL (LTC) B. S. BEAR, FINANCE AND ACCOUNTING OFFICER, 45TH FINANCE SECTION, KAISERSLAUTERN, WEST GERMANY, UNDER 31 U.S.C. SEC. 3527(C), FOR AN IMPROPER PAYMENT CHARGEABLE TO HIS ACCOUNT IN THE AMOUNT OF $724.84. FOR THE REASONS SET FORTH BELOW, THE REQUESTED RELIEF IS DENIED.

THE IMPROPER PAYMENT OCCURRED WHEN AN IMPROPERLY CERTIFIED ARMY FORM 3953, PURCHASE REQUEST AND COMMITMENT (PRC), WAS PROCESSED AND PAID BY THE 45TH FINANCE SECTION TO THE ARMY AND AIR FORCE EXCHANGE SERVICE FOR SUPPLIES PROVIDED FOR CONSUMPTION BY UNITED STATES TROOPS ENGAGED IN REFORGER 82 JOINT MILITARY EXERCISES. THE CERTIFICATION WAS IMPROPER BECAUSE THE SUPPLIES ORDERED INCLUDED BEER, WHICH IS NOT AN AUTHORIZED PURCHASE UNDER THE RELEVANT APPROPRIATION ACT, PUB.L. NO. 97-377, 96 STAT. 1832, 723 (1982), OR THE APPROPRIATION ACCOUNT CITED ON THE PRC.

THE APPROPRIATION ACCOUNT WAS ARMY MANAGEMENT STRUCTURE ACCOUNT 208011.1100G, WHICH INCLUDES FUNDS FOR JOINT CHIEFS OF STAFF EXERCISED SUCH AS REFORGER 82. ACCORDING TO ARMY REGULATIONS, THESE FUNDS WERE TO BE USED ONLY "TO MEET EXPENSES INCURRED IN CONNECTION WITH THE CONDUCT OF JOINT CHIEFS OF STAFF (JCS) EXERCISES OVER AND ABOVE NORMAL DAILY OPERATING COSTS OF THE UNITS AND OR ACTIVITIES INVOLVED." ARMY REGULATION (AR) 220-55, PARA. 23.

APPROPRIATED FUNDS ARE NOT AVAILABLE FOR THE PURCHASE OF BEER, IN THE ABSENCE OF

SPECIFIC AUTHORITY. PURCHASE OF BEER FOR REFORGER UNITS IS PERMITTED, BUT ONLY WITH NONAPPROPRIATED MORALE SUPPORT FUNDS. (ANNEX E TO EXISTING OPLANS (OPERATIONS PLANS) FOR REFORGER 82, PARAGRAPHS 2(F) AND 6(A)(8).) ALTHOUGH VOLUMINOUS, DETAILED GUIDELINES MAY HAVE LED TO SOME CONFUSION UNDER THE CIRCUMSTANCES OF THIS CASE; THE CERTIFICATION WAS UNDENIABLY IMPROPER.

THE PRC SUBMITTED TO THE FINANCE OFFICE WAS CERTIFIED BY SERGEANT GARY W. MALAN, FUNDS CONTROL OFFICER. HE CERTIFIED THAT AN ACCOUNTING FUND CLASSIFICATION CODE WAS PROPERLY CHARGEABLE WITH THE EXPENSES IN QUESTION, AND HIS SUPERIORS APPROVED AND SIGNED THE PRC. THE CLASSIFICATION CODE CONTAINS NO DESCRIPTIVE TERMS, ALTHOUGH ITS FORM IS DISTINGUISHABLE FROM NON-APPROPRIATED FUND CLASSIFICATION NUMBERS. NEVERTHELESS, ON ITS FACE THE PRC CONTAINS NO CLEAR CONFLICT WITH RECOGNIZED STANDARDS FOR DISBURSEMENTS, AND THE EMPLOYEE PROCESSING THE FORM MAY HAVE HAD NO REASON TO QUESTION THE ACCOMPANYING VOUCHER, EXCEPT TO QUESTION THE ACCURACY OF CALCULATIONS ON IT (WHICH IN FACT OCCURRED IN THIS CASE).

WHEN THE PRC IN QUESTION ARRIVED FOR PROCESSING AND PAYMENT IN THE 45TH FINANCE SECTION, COMMERCIAL ACCOUNTS DIVISION, IT HAD AN APPARENTLY PROPERLY CERTIFIED VOUCHER ATTACHED. UNDER AR 37-107.1-7.E, THE DISBURSING OFFICER (AND HIS STAFF) WAS ENTITLED TO RELY ON THE DESIGNATED CERTIFYING OFFICER'S CERTIFICATION "UNLESS HE HAS A REASONABLE DOUBT AS TO THE CORRECTNESS OF THE FACTS STATED ON OR ATTACHED TO THE VOUCHER." B-216246, MAY 22, 1985.

WE HAVE BEEN ADVISED THAT DUE TO THE LARGE VOLUME OF PRC'S ADMINISTERED BY THE FINANCE OFFICE, THE FINANCE AND ACCOUNTING OFFICER HAS DELEGATED TO SUBORDINATES HIS AUTHORITY TO APPROVE PRC'S UNDER $100,000 AND THAT PRC'S UNDER $1,000 MAY BE HANDLED BY CLERICAL PERSONNEL. THUS, LTC BAER DID NOT PERSONALLY REVIEW THE PRC IN QUESTION OR THAT LTC BAER DID NOT PERSONALLY REVIEW THE PRC IN QUESTION OR THE VOUCHER ENUMERATING THE BRANDS OF BEER TO BE PURCHASED.

THIS OFFICE HAS AUTHORITY UNDER 31 U.S.C. SEC. 3527(C) TO RELIEVE A DISBURSING OFFICER FROM LIABILITY WHEN THE RECORD INDICATED THAT THE DISBURSING OFFICER ACTED WITHIN THE BOUNDS OF DUE CARE AS ESTABLISHED APPLICABLE REGULATIONS, AND THAT THERE IS NO EVIDENCE OF BAD FAITH ON HIS PART. 62 COMP.GEN. 91 (1982).

ON THE BASIS OF THE INVESTIGATION IN THIS CASE, YOU HAVE FOUND THAT LTC BAER HAD ESTABLISHED AND MAINTAINED AN ADEQUATE SYSTEM OF PROCEDURES AND CONTROLS AND THAT THE PROCEDURES OF THE OFFICE. YOU ALSO FOUND THAT THE IMPROPER PAYMENT WAS NOT THE RESULT OF BAD FAITH OR LACK OF CARE ON THE PART OF LTC BAER. WE ARE UNABLE TO CONCUR IN THESE CONCLUSIONS AT THIS TIME. THE RECORD PRESENTED TO US DID NOT GO INTO THE PROCEDURES BY WHICH SUBORDINATES ISSUED CHECKS AND HOW LTC BAER SUPERVISED THIS PROCESS IN ENOUGH DETAIL TO ALLOW US TO FORM AN INDEPENDENT JUDGMENT. ACCORDINGLY, WE ARE UNABLE TO GRANT RELIEF AT THIS TIME. IF LTC BAER'S SUPERVISION OF THE PAYMENT PROCESS THAT RESULTED IN THE PAYMENT IS DOCUMENTED, WE WILL RECONSIDER OUR DENIAL.

WE NOTE THAT NO COLLECTION ACTION HAS BEEN PURSUED WITH THE RECIPIENT OF THE IMPROPER PAYMENT, THE ARMY AND AIR FORCE EXCHANGE SERVICE, ON THE BASIS OF THE CONCLUSION OF INVESTIGATING OFFICER THAT SUCH ACTION IS INAPPROPRIATE HERE, SINCE AAFES, ACTING IN GOOD FAITH, PROVIDED GOODS AND ACCEPTED PAYMENT BASED ON ITS NEGOTIATED CONTRACT WITH THE ARMY. WE ARE UNCLEAR WHY THE BEER HAS NOT BEEN PAID FOR OUT OF THE NON-APPROPRIATED FUND AVAILABLE FOR THIS PURPOSE. THIS WOULD APPEAR TO BE THE MOST APPROPRIATE SOURCE OF FUNDS TO RESOLVE THIS QUESTION; HOWEVER, WE HAVE NO AUTHORITY OVER ITS USE.