

DOCUMENT RESUME

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[Claim for Accumulated Commissions]. B-187975. July 28, 1977. 3 pp.

Decision re: Charles W. Hahn; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Civilian Personnel.
Budget Function: General Government: Other General Government (806).

Organization Concerned: Veterans Administration: Veterans Canteen Service.

Authority: 44 Comp. Gen. 110. 41 Comp. Gen. 265. B-14909 (1944). B-28570 (1944).

Harry Osolin, Chief Disbursing Officer, Veterans Canteen Service, requested a decision concerning the claim of an employee who was paid sales commissions for barbering services with coupons that were redeemable for cash. The employee saved a considerable number of coupons for several years rather than cashing them in weekly which was the correct procedure. The claim for \$988.58 was payable, as there was no evidence of fraud. (DJM)

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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: B-187975

DATE: July 28, 1977

MATTER OF: Charles W. Hahn - Compensation

DIGEST: Employee received coupons in return for barbering services and was to be paid commission of 70 percent of their face value. He accumulated coupons because he took some home and did not turn in all coupons to receive payment for services at end of each week which was correct procedure. Although employee signed reports which did not show total coupons, claim may be paid since there is no evidence of fraud and because there is no reason to dispute employee's explanation of how he accumulated coupons.

This action is in response to the request for a decision submitted by Mr. Harry Osolin, Chief Disbursing Officer, Veterans Canteen Service, concerning the claim of Mr. Charles W. Hahn for \$988.58 in commissions allegedly due him as compensation for barbering services rendered as an employee of the Veterans Canteen Service.

The record shows that Mr. Hahn was a barber at the Mountain Home, Tennessee, Canteen, during the period covered by the claim. Barbers are employees of the Veterans Canteen Service and are paid a percentage commission of total weekly sales. Barber services are performed for cash, coupons, and on a charge basis, and the barbers are required to prepare and sign clerks' reports each week which state that all sales are reported for the period. On September 1, 1976, Mr. Hahn's wife presented \$1,412.26 in coupons for payment at 70 percent of face value. She stated that the coupons had been accumulated by her husband and represented sales for barber services rendered. Mr. Hahn is presently on sick leave pending disability retirement. The coupons were received in a large 20-pound grocery bag and were counted and verified by two responsible canteen employees and then destroyed by shredding. The serial numbers of the coupons dated as far back as 1972.

In a letter dated October 11, 1976, Mr. Hahn explained that at times during the week he would stick coupons here and there at

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his home rather than carry them around. Then, when it appeared he would have an unusually low payday, he would hunt up all the coupons that he could find so that he could turn them in and receive a higher payment.

The Chief Disbursing Officer submitted the claim for an advance decision because of its doubtful validity. He stated:

"In summary we find it difficult to understand how Mr. Hahn could accumulate all the loose coupons which filled a large grocery bag. However, we have no valid reason for disputing his statements. Mr. Hahn is authorized a seventy percent commission on his barber services which would amount to \$988.58, on the total of \$1,412.26 in coupons received by the canteen on September 1, 1976. We are unable to locate a precedent or procedure upon which a determination can be made as to the validity of Mr. Hahn's claim. We therefore request a ruling on his claim."

This Office has repeatedly held, where there is a reasonable suspicion of irregularity, collusion, or fraud, that the resolution of such matters is for scrutiny in the courts when the facts may be judicially determined upon sworn testimony and competent evidence and a forfeiture declared or other appropriate action taken. See 44 Comp. Gen. 110 (1964) and 41 Comp. Gen. 285 (1961). However, we have also held that the burden of establishing fraud rests upon the party alleging the same and must be proven by evidence sufficient to overcome the existing presumption in favor of honesty and fair dealing. Circumstantial evidence is competent for this purpose, provided it affords a clear inference of fraud and amounts to more than suspicion or conjecture. However, if, in any case, the circumstances are as consistent with honesty and good faith as with dishonesty, the inference of honesty is required to be drawn. See B-14909 and B-28570, February 12, 1944.

It appears from the submission that Mr. Hahn may not have followed the correct procedures for cashing in his coupons, but we do not view these procedural defects as important enough as to negate his claim. Since no evidence of fraud has been presented and because there is no reason for disputing Mr. Hahn's explanation regarding his accumulation of sales coupons, the payment of his claim would not be contrary to law.

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Accordingly, the claim of Mr. Charles W. Hahn for \$988.58 in sales commissions may properly be paid.

R. J. Hahn
Deputy Comptroller General
of the United States