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**DECISION**



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

**FILE:** B-194732

**DATE:** April 11, 1980

**MATTER OF:** Michael Maiello - Real Estate Expenses -  
Commitment Fee

[Reimbursement of

**DIGEST:** Transferred employee may not be reimbursed loan commitment fee incurred incident to purchase of home at new official duty station since fee is finance charge within the purview of Section 106 of Truth in Lending Act, Title I, Public Law 90-321, 15 U.S.C. § 1605 (1976) and Regulation Z, 12 C.F.R. § 226.4(a) (1979) and is thus not reimbursable under Federal Travel Regulations (FPMR 101-7) paragraph 2-6.2d (May 1973).

This action concerns the appeal of Mr. Michael Maiello, an Electronic Engineer, Defense Logistics Agency, from the disallowance of his claim by our Claims Division for reimbursement of a fee of \$530 paid by him when he purchased a home at his new official station which was listed on the bank's closing statement as a 1 percent commitment fee and on the Housing and Urban Development Disclosure/Settlement Statement as a loan origination fee.

Mr. Maiello's claim was disallowed by our Claims Division on the basis that this fee represented a finance charge under Section 106 of the Truth in Lending Act, Title I, Public Law 90-321, 15 U.S.C. § 1605 (1976) and the implementing Regulation Z, 12 C.F.R. § 226.4(a) (1979), and was thus not reimbursable under the Federal Travel Regulations (FPMR 101-7) paragraph 2-6.2d (May 1973). We concur in this determination. The pertinent part of Regulation Z provides:

"226.4 Determination of finance charge.

- (a) General rule. Except as otherwise provided in this section, the amount of the finance charge in connection with any transaction shall be determined as the sum of all charges payable directly or indirectly by the customer, and imposed directly

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or indirectly by the creditor as an incident to or as a condition of the extension of credit, whether paid or payable by the customer, the seller, or any other person on behalf of the customer to the creditor or to a third party, including any of the following types of charges:

\* \* \* \* \*

"(2) Service, transaction, activity, or carrying charge.

"(3) Loan fee, points, finder's fee, or similar charge.\*\*\*"

Under paragraph 2-6.2d of the Federal Travel Regulations, reimbursement of an expense incurred in connection with the sale or purchase of a house is specifically prohibited if the expense is a finance charge as defined in the Truth in Lending Act (TILA) and Regulation Z. One of the primary purposes of the TILA is to assure a meaningful disclosure of credit terms so that a consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit. See 15 U.S.C. § 1601. Therefore, the finance charge is defined so as to distinguish between charges imposed as part of the cost of obtaining credit and charges imposed for services rendered in connection with a purchase or sale regardless of whether credit is sought or obtained. Only the latter may be reimbursed under the governing law, 5 U.S.C. § 5724a(a)(4), and the aforementioned implementing regulation, FTR 2-6.2d.

Accordingly, we have held that there may be no reimbursement of a lump-sum loan origination fee. However, if the lump-sum fee includes specific charges which would otherwise be for allowance there must be a specific list of the services or charges that comprise the lump-sum amount, and only those items that are specifically excluded from the definition of a finance charge by 12 C.F.R. § 226.4(e) (1979), may be reimbursed. Matter of Anthony J. Vrana, B-189639, March 24, 1978. In the instant case, the record does not contain any listings or other explanation of the services or charges that comprise the lump-sum amount. Therefore, there may be no reimbursement of that amount.

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Mr. Maiello contends that the loan origination fee is similar to FHA and VA fees for loan applications which are reimbursable under FTR 2-6.2d and the implementing Department of Defense Joint Travel Regulations, JTR C 14002-1d. However, the FHA and VA fees are paid to the Government to defray costs of such things as appraisals and credit reports. B-169790, July 2, 1970; B-174106, October 21, 1971. These fees are therefore distinguishable from a loan origination fee which is paid to a lending institution as a part of its price for extending credit.

Accordingly, the disallowance of Mr. Maiello's claim is sustained.

The claimant asked the question of what other review processes are available in this matter. The claimant is directed to the provisions of 28 U.S.C. § 1346 and 1491 (1976) concerning matters cognizable in the District Courts of the United States and in the United States Court of Claims.

*Milton J. Aronson*

For the Comptroller General  
of the United States