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DECISION



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

FILE: B-197507

DATE: June 4, 1980

MATTER OF: Henry A. Pharr

[Request for Waiver of]

DIGEST: Navy member's indebtedness to the United States as a result of an overpayment of a reenlistment bonus may not be waived since prior to reenlisting member received leave and earnings statements which indicated the maximum reenlistment bonus to which he would be entitled if he subsequently reenlisted. Member is not without fault since he failed to sufficiently question his bonus payment after being informed of the amount he was to receive by his leave and earnings statements.

Mr. Henry A. Pharr requests reconsideration of the Claims Division's denial of his application for waiver of his debt to the United States resulting from overpayment of a reenlistment bonus. Since the member received leave and earnings statements prior to his reenlistment which indicated the correct amount of his bonus, we affirm the denial of his application for waiver.

Mr. Pharr, a former Navy member, entered into a 2-year extension of his original enlistment on June 21, 1975, and received a bonus of \$925.80. He was discharged from this extended enlistment on June 20, 1977. For at least several months prior to and at discharge he received leave and earnings statements which specified, among other things, that upon a subsequent reenlistment for 6 years he would receive a maximum reenlistment bonus of \$1,074.20.

On September 19, 1977, Mr. Pharr reenlisted for 6 years in the Navy. He received a \$2,000 bonus which he questioned, but he was told that this was his correct entitlement. Subsequently, in October 1977 the Navy realized that Mr. Pharr's correct entitlement was \$1,074.20 derived from \$2,000 less his previous bonus of \$925.80. In November 1977 Mr. Pharr requested waiver of his debt, which request was subsequently denied by our Claims Division.

Section 2774 of title 10, United States Code (1976), provides our authority to waive certain debts when collection

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B-197507

would be against equity and good conscience and not in the best interests of the United States. However, subsection 2774(b) precludes waiver if, in the opinion of the Comptroller General—

"* * * there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member * * *"

The record before us indicates that the overpayment was the result of administrative error on the part of the Navy and not the result of fraud, misrepresentation or lack of good faith on the part of the member. However, we must conclude that in view of the leave and earnings statements which the former member received each month and at discharge, he is at least partially at fault. While Mr. Pharr apparently initially questioned the amount of the bonus at the time of payment and was informed that he was entitled to the amount, we cannot view this as countermanding his duty to more fully ascertain his entitlement in view of the leave and earnings statements he had received which stated his correct entitlement. See B-193550, February 15, 1979, and B-185127, March 8, 1976.

Finally, in seeking this reconsideration, Mr. Pharr has indicated the financial hardship repayment will entail to him. While we regret this fact, financial hardship standing alone is not sufficient reason to allow waiver of a debt which arises from receipt of funds to which the debtor should have known he was not entitled. B-193550, February 15, 1979.

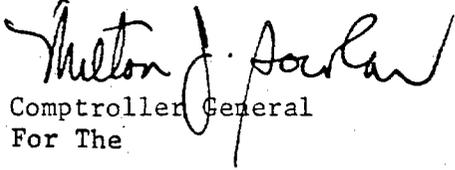
Accordingly, we sustain the previous denial by our Claims Division of this application for waiver.


For The Comptroller General
of the United States

Memorandum

June 4, 1980

TO : Associate Director, FGMSD - Claims Group (Room 5858)

FROM : 
Comptroller General
For The

SUBJECT: Henry A. Pharr, application for waiver of overpayment
of reenlistment bonus - Z-2799973 - B-197507-O.M.

Returned is file Z-2799973 and our decision of today, B-197507,
affirming your denial of the subject waiver request.

Attachments - 2