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**DECISION**



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

*[Request for Reimbursement of*

FILE: B-198296

DATE: September 23, 1980

MATTER OF: Algis G. Taruski - Loan Origination Fee

DIGEST: Transferred employee may not be reimbursed loan origination fee incurred incident to purchase of home at new official duty station since fee is finance charge within the purview of Truth in Lending Act, 15 U.S.C. § 1601, et seq. (1976) and Regulation Z, 12 C.F.R. § 226.4 (1980). Federal Travel Regulations (FPMR 101-7) paragraph 2-6.2d (May 1973), prohibit the reimbursement of any fee, cost, charge, or expense which is determined to be a part of the finance charge under the Truth in Lending Act and Regulation Z.

Mr. P.M. Baldino, Chief, Finance and Accounting Division, Resource Management Office, Office of the Chief of Engineers, Department of the Army, requests our decision on the propriety of paying a voucher for a loan origination fee when the employee has not provided an itemization of the fee to show which, if any, portions are reimbursable.

Mr. Algis G. Taruski, an employee of the Corps of Engineers (Corps) was transferred from Galveston, Texas, to Palatka, Florida, effective March 22, 1979. Mr. Taruski purchased a residence in Palatka, and incurred a charge for a loan origination fee of \$1,312.50, representing 2-1/2 percent of the loan amount. That amount was disallowed by the Corps on the basis that this Office has ruled that loan origination fees may not be reimbursed since they represent finance charges. Mr. Taruski was further advised that if he would itemize the separate items of the loan origination fee, the Corps would reconsider his voucher to determine if any of the items were reimbursable. Instead of providing an itemization,

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Mr. Taruski argues that the \$1,312.50 does not represent a finance charge but rather is a charge to defray the administrative cost of making the loan and that the decisions of this Office regarding loan origination fees do not reflect current financial conditions. He also analyzed the provisions of section 226.4 of title 12, Code of Federal Regulations (C.F.R.) and alleges that they are internally inconsistent.

Federal Travel Regulations (FPMR 101-7) para. 2-6.2d (May 1973) prohibits the reimbursement of any fee, cost, charge, or expense which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Pub. L. No. 90-321, 15 U.S.C. 1601, et seq. (1976) and Regulation Z, codified at 12 C.F.R. 226.4 (1980). Thus, decisions of this Office have consistently held that where that Act and the implementing regulations define an item as a finance charge reimbursement may not be allowed for that item. Richard J. Elliott, B-194072, July 2, 1979.

The aforecited implementing regulation, 12 C.F.R. 226.4 (1980), 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 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. \* \* \*"

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We have held that the primary purpose of the Truth in Lending Act, supra, 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. The finance charge is thus 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. See Richard J. Elliott, supra.

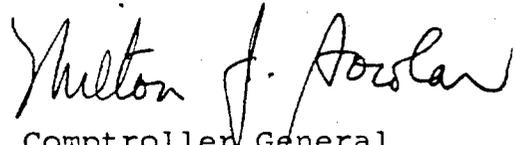
We believe that it is clear that the loan origination fee paid by Mr. Taruski is a finance charge. The closing sheet provided to him by the lender lists the \$1,312.50 under the heading "Loan Origination Fee - 2-1/2%." In addition, Mr. Taruski states that the fee was for the purpose of covering the lender's "administrative costs." Thus, in this case, the loan origination fee reflects the mortgagor's administrative costs in connection with making the loan and is therefore "incident to \* \* \* the extension of credit." Unitemized charges characterized as administrative costs or overhead expenses have consistently been held to be finance charges. Michael E. Forrest, B-196402, June 5, 1980.

Thus, it is clear that the loan origination fee represents a finance charge imposed by the lender, no part of which is reimbursable absent itemization to show items excluded by 12 C.F.R. 226.4(e) from the definition of finance charge.

Finally, Mr. Taruski argues that the decisions of this Office pertaining to loan origination fees do not reflect current economic realities. While this Office has consistently denied reimbursement for lump sum loan origination fees, our decisions are based on the provisions of FTR para. 2-6.2d, and Regulation Z, which as discussed above, prohibit reimbursement of charges which are a part of the finance charge. This Office has no authority to waive or modify the application of these regulations. The agency which is responsible under law for the promulgation of the Federal Travel Regulations is the General Services Administration (GSA). Since Mr. Taruski's argument

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lies in policy rather than the application of legal principles, he should properly address his arguments to GSA. Likewise, any questions concerning reputed inconsistencies in Regulation Z should be addressed to the Board of Governors of the Federal Reserve System, the agency responsible for the issuance of that regulation.

A handwritten signature in cursive script, reading "Milton J. Aorlan".

For the Comptroller General  
of the United States