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DECISION

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

FILE: B-201899

DATE: August 12, 1981

MATTER OF: Arthur J. Kerns, Jr. - Real Estate
Expenses - Second Mortgage

DIGEST: Transferred employee obtained money from second mortgage on old residence to make downpayment on purchase of new residence. Second mortgage was on employee's old residence which he was unable to sell due to high interest rates, low availability of mortgage money, and high real estate prices. Transaction to obtain funds to make downpayment was not an "interim personal financing loan" but a loan upon employee's equity in old residence. Such transaction was thus essential to enable employee to make downpayment on residence at new duty station incident to transfer. Hence, expenses of second mortgage are reimbursable, if otherwise proper. 5 U.S.C. § 5724a(a)(4) and FTR para. 2-6.2d.

This decision is in response to a request by Mr. D. E. Cox, Authorized Certifying Officer, Federal Bureau of Investigation (FBI), United States Department of Justice, as to whether he may certify for payment a reclaim travel voucher in the amount of \$596.35. The reclaim was submitted by Mr. Arthur J. Kerns, Jr., an employee of the agency, for reimbursement of costs incurred in obtaining a second trust on his old residence in order to purchase a new residence at his new official duty station.

The record discloses that by letter dated August 22, 1979, Mr. Kerns was officially transferred from Washington, D.C., to Phoenix, Arizona. His transfer was effected on October 8, 1979. Mr. Kerns reports that upon receipt of his official transfer letter, he immediately contacted a realtor and placed his Falls Church, Virginia residence on the market. He states that at that time, there was no buyer interest in the property. He reports that

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in October 1979, he leased the house to an individual who expressed an interest in purchasing it. Due to the slow real estate market, Mr. Kerns requested and was granted a 1-year extension to sell his residence in Virginia. During this period, the employee was attempting to arrange for the necessary financing to purchase his new residence in the Phoenix area. In order to qualify for a loan, Mr. Kerns was required to take a second trust on his Virginia residence which allowed him to use the equity therein for the downpayment on his new house in Scottsdale, Arizona. He reports that he has been unable to sell his Falls Church residence due to high interest rates, low availability of mortgage money, and high real estate prices.

In September 1980, Mr. Kerns submitted a travel voucher for reimbursement of real estate expenses which he had incurred including the costs incurred in obtaining the second trust on his Falls Church residence. The expenses claimed included legal and related costs, lender's appraisal fee, mortgage title policy, and transmittal charges for sending and returning closing documents for the second trust on the Virginia residence. The FBI administratively disallowed those expenses which were shown to be associated with obtaining the second mortgage.

The certifying officer states that the financial transaction involved in the claim by Mr. Kerns may be considered as normal real estate expenses in today's real estate market, but he is unable to find any authority within the Federal Travel Regulations to allow reimbursement for the expenses directly associated with obtaining money by taking a second trust on the employee's Virginia residence.

The statutory and regulatory authority for reimbursement of real estate expenses incurred by a Federal civilian employee upon transfer of official station is contained in section 5724a(a)(4), title 5, United States Code, 1976, and paragraph 2-6.2d of the Federal Travel Regulations (FPMR 101-7, May 1973). It is to be noted

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that reimbursement of expenses connected with a second mortgage transaction is not specifically precluded by either the cited statute or regulation. In this regard, this Office has held that expenses incurred in connection with the negotiation of a second mortgage, if otherwise proper, are reimbursable to the same extent as expenses incurred in connection with first mortgages, provided such charges do not exceed the customary costs therefor in the locality involved, are reasonable, and do not compensate the lender for the high risk involved. James J. Beirs, B-184703, April 30, 1976; Charles L. Putnam and Billie L. Verble, B-183251, May 29, 1975; B-167605, August 21, 1969; and B-166698, May 27, 1969.

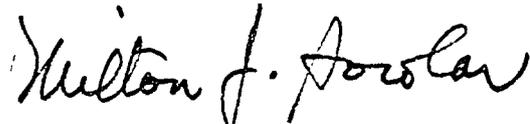
While we are cognizant that here, the second mortgage was not obtained on the residence which Mr. Kerns was purchasing and was made on the employee's old residence which he had been unable to sell, we do not regard this transaction by Mr. Kerns to obtain funds to make the downpayment on the residence at his new duty station as being extraordinary or unusual in light of today's real estate climate, i.e., high interest rates, low availability of mortgage money, and high real estate prices, so as to preclude reimbursement under the Federal Travel Regulations. See Willard L. Steenhout, B-199304, March 31, 1981, and B-165686, December 20, 1968. Rather, we view the second mortgage transaction on the old residence as a part of the "total financial package," as being essential in the purchase of the new residence in Scottsdale, Arizona. As such, the second mortgage was not an "interim personal financing loan" disassociated from the purchase of the new residence, but was a loan made by the employee on his equity in his old residence to enable him to make the downpayment on the residence being purchased at his new post of duty, incident to his transfer of official station. Compare 55 Comp. Gen. 679 (1976), and James J. Beirs, B-184703, April 30, 1976.

We would also point out that the Application for Reimbursement of Expenses Incurred Upon Sale or Purchase (or both) of Residence Upon Change of Official Station submitted with the travel voucher shows that the expenses of the purchase of the Scottsdale, Arizona, residence have been administratively approved as being reasonable in amount and customarily paid by buyers in

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the Scottsdale area. Further, the evidence of record does not indicate that Mr. Kerns obtained the money from the second mortgage on his Virginia residence to compensate the lender for any high risk involved in purchasing the Scottsdale residence.

Accordingly, in light of the rule enunciated in our cited decisions and the particular facts herein involved, the claimed real estate expenses associated with the second mortgage on Mr. Kern's Falls Church, Virginia residence may be certified for payment, if otherwise proper.

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

Acting Comptroller General
of the United States