



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Lieutenant Commander Donald M. Cosgrove, USN
File: B-234729
Date: December 15, 1989

DIGEST

Request for waiver of a debt arising out of overpayments of a basic allowance for quarters and housing after a service member returned home from overseas assignment properly was denied, since the member knew he was being overpaid and that the agency was trying to correct the situation, and he therefore had a duty to set the repayments aside for eventual refund.

DECISION

Lieutenant Commander (LCDR) Donald M. Cosgrove, USN, asks that we reconsider our Claims Group's October 26, 1988, denial of his application for waiver of his indebtedness to the United States arising out of overpayments of quarters and housing allowances in February and March 1986. We affirm the Claims Group's decision.

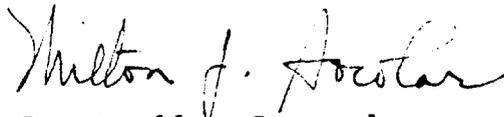
LCDR Cosgrove had been receiving an overseas housing allowance of more than \$600 per month while on duty in Kenya, an assignment that began on July 1, 1984. The assignment ended on February 13, 1986, but his next two paychecks erroneously still included the overseas allowance, resulting in a total overpayment of \$802.99.

Our Claims Group pointed out that under 10 U.S.C. § 2774 our Office has authority to waive claims for erroneous overpayments of pay and allowances if collection would be against equity and good conscience and not in the best interest of the United States. The Claims Group then denied LCDR Cosgrove's request for waiver of his debt on the basis that as of February 13, 1986, he should have expected a substantial reduction in his pay, and that he therefore should have questioned the accuracy of the February and March payments. The Claims Group concluded that waiver was not appropriate "[s]ince he failed to do so."

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In requesting reconsideration, LCDR Cosgrove asserts that he in fact pursued the overpayment issue with the Navy in February and March 1986, "attempting to unravel the mystery of the overpayment and why it continued."

The fact that LCDR Cosgrove may have inquired about the correctness of the two payments does not, in itself, warrant waiving the debt in issue. It should have been apparent to LCDR Cosgrove that the overpayments represented the overseas allowance to which he was no longer entitled, and the record shows that he knew the Army was trying to correct the problem. In these circumstances, LCDR Cosgrove had a duty to set the payments aside for eventual refund. See Petty Officer First Class Bruce F. Jenkins, USN, B-220792, Nov. 14, 1985.



Acting Comptroller General
of the United States