



Comptroller General  
of the United States

1038117

Washington, D.C. 20548

## Decision

Matter of: James A. Moule - Reconsideration

File: B-253967.2

Date: July 5, 1994

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### DIGEST

An employee, who was transferred and promoted with an accompanying pay increase, was erroneously granted an additional merit pay increase on October 5, 1990. The agency now advises that the SF-50 issued to rescind that action, although dated 2 days later, was not executed until much later. The personnel officer executed the rescinding SF-50 in August 1991, after the error was discovered in late July 1991. Based on this new information, decision B-253967, Nov. 30, 1993, is reversed and waiver of the debt due to the overpayment of merit pay is hereby granted.

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### DECISION

This decision is in response to correspondence from the Fiscal Officer at the Carl T. Hayden Medical Center, Department of Veterans Affairs, who, on behalf of Mr. James A. Moule, is appealing our decision B-253967, Nov. 30, 1993, based on amended facts. We hereby reverse the decision and grant waiver for the following reasons.

In our earlier decision, the information provided this Office showed that Mr. Moule was issued a Notification of Personnel Action (SF-50) dated October 5, 1990, notifying him that he was entitled to a merit pay increase effective October 7, 1990, but that another SF-50, also issued to him on October 7, 1990, rescinded the pay increase and contained the express statement that he was not entitled to the increased pay. Since he continued to receive the increased pay thereafter, we denied waiver because he had reason to question the erroneous increase.

The agency has now informed us that the earlier information was inaccurate and recommends that waiver be granted to Mr. Moule. According to the agency, even though the

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<sup>1</sup>Mr. Danny J. Ford (Reference 644/04)

rescinding SF-50 indicated that it was signed by the personnel officer on October 7, 1990, that was not the case. The personnel officer who signed it was not employed at the medical center until June 1991, and the rescinding action did not occur until August 1991, after the error was discovered in late July 1991.

We find no other reason to conclude that Mr. Moule knew or should have known that he was being overpaid. There is nothing to show that he had knowledge of the details of the merit pay system or any reason to question the erroneous pay increase.

In view of this new information and the fact that there is nothing else of record to impute knowledge of nonentitlement to Mr. Moule, we hereby reverse the action taken in our decision B-253967, Nov. 30, 1993, and grant waiver of his debt due to overpayment of merit pay.

Robert P. Murphy  
Acting General Counsel

**Date:** July 5, 1994  
**To:** Director, Claims Group - OGC  
**From:** Acting General Counsel - Robert P. Murphy  
**Subject:** James A. Moule - Waiver of Debt - B-253967.2-O.M.

We are returning Claim File No. Z-2917011 in the case of Mr. James A. Moule.

Because of amended facts, by decision B-253967.2, dated today, copy attached, we have overruled our earlier decision B-253967, Nov. 30, 1993, rendered in Mr. Moule's case, and have now granted waiver of his debt.

Attachments - 2

OGC Form 500 (Rev 3/92)

OFFICE OF THE GENERAL COUNSEL  
DECISION DISTRIBUTION FORM

**SECTION I: DISTRIBUTION AND PROCESSING INSTRUCTIONS**

<b>1. B Number</b>  <p style="text-align: center;">B-253967.2</p>	<b>2. Attorney</b>  <p style="text-align: center;">Riedinger</p>	<b>3. Distribution Class (complete with pen and ink)</b>  <input type="checkbox"/> Unrestricted <input type="checkbox"/> Delayed <input type="checkbox"/> Limited <input type="checkbox"/> Restricted
<b>4. Publication Recommended?</b>  <p style="text-align: center;">No recommendation</p>		
<b>5. Special Instructions:</b>  <p style="text-align: center;">None</p> <p><small>Digest is <input type="checkbox"/> is not <input type="checkbox"/> included</small></p>		<b>6. If Delayed, this document will be available for General Distribution (complete with pen and ink)</b>  <input type="checkbox"/> Days after issuance <input type="checkbox"/> When Notified by OGC or OCR

**SECTION II: INITIAL DISTRIBUTION**

Mr. Danny J. Ford Fiscal Officer Department of Veterans Affairs Carl T. Hayden Medical Center 650 East Indian School Road Phoenix, Arizona 85012	Mr. James A. Moule 736 E. Drayfus Avenue Scottsdale, Arizona 85260
Mr. Riedinger, OGC Room 7870	Ms. Douglas, OGC Room 7870
Mrs. Barrett, OGC (2 copies) Room 7870	Director, Claims Group Room 5047 (with memo and Z-file)