



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON

A-91137

APR 11 1938

Chairman, Board of Directors,
Federal Deposit Insurance Corporation.

Sir:

Letter of December 10, 1937, from the Fiscal Agent of your Corporation is as follows:

"We have had considerable correspondence with the office of the United States Marshal, Eastern District of Missouri, at St. Louis, Mo., regarding settlement of our claim for \$17.70, representing a mileage allowance to Mr. _____, one of our bank examiners, for travel from Macon, Mo. to St. Louis, Mo. and return. You are respectfully requested to give consideration to the facts submitted below and to authorize the United States Marshal for the Eastern District of Missouri to drop his claim against us for a refund of the payment they made on this account.

"In June 1937, Mr. _____ was subpoenaed to appear as a witness on behalf of the Government in United States District Court at St. Louis. In response to this subpoena, Mr. _____ traveled in his own automobile from Macon, Mo. to St. Louis, Mo. and back to Macon. He submitted a personal voucher to us in which he claimed a mileage allowance for 354 miles at five cents per mile, a total of \$17.70. We paid this amount to him. Mr. _____ then filed a claim against the United States Marshal for expenses in connection with his travel, including \$17.70 for mileage, which was paid. Mr. _____ endorsed his check to the order of the Corporation, thereby clearing up the amount we advanced to him. Mr. _____

's claim for mileage allowance was in accord with Travel Regulations of the Corporation and with Section 12(a) of Standard Government Travel Regulations, as Amended, and approved by the President, January 30, 1934 and December 10, 1935.

"On November 10, 1937, Mr. _____, United States Marshal, addressed a letter to Mr. _____, Supervising Examiner at St. Louis, Mo. which was forwarded to me for attention. In this letter Mr. _____ requested us to refund \$17.70 to them stating that 'in the absence of receipts to cover gasoline and oil used in making this trip it will be necessary to refund the mileage charged, \$17.70, as only actual expenses are allowed officers and employees of the United States incurred in going, returning, and attending court as witnesses. Instructions state that in no event should mileage be charged for the use of the witness' personally owned automobile.'

"Obviously, Mr. [redacted] can not now obtain receipts for gasoline, oil, etc., consumed on his trip last June. However, it does not seem reasonable that because of failure to obtain receipts that no reimbursement should be made to us on account of the transportation expense of Mr. [redacted]. If there is no way in which this mileage allowance can be made, it seems that the United States Marshal should be authorized to at least pay an amount equal to the railroad fare from Macon to St. Louis and return plus pullman berth or seat charges, but in a total amount not exceeding the amount claimed as mileage.

"Your early consideration to this matter will be appreciated so that we may close our files in regard to it and so that the suspension in the account of Mr. [redacted] may be removed."

It appears that [redacted], an examiner of the Federal Deposit Insurance Corporation, a Governmental instrumentality created for the public welfare by act of August 28, 1935, 49 Stat. 684, to provide for the sound, effective, and uninterrupted operation of the banking system, and for other purposes as therein stated, was subpoenaed as a witness for the Government before the Federal Grand Jury, St. Louis, Missouri, in its investigation of alleged violations of the National Bank Act (R.S. 5209) by [redacted] and [redacted]. In response to the subpoena, the witness left his home, Macon, Missouri, at 10:30 a.m., June 22, 1937, and traveled in his own automobile to St. Louis, a distance of 177 miles, arriving there that evening. On June 23, the witness attended and testified before said Federal Grand Jury. Witness left St. Louis at 7 a.m., June 24, in his automobile for the return trip home, arriving there at noon, same day. Subsequently, on July 12, 1937, the witness was paid claimed subsistence and transportation expenses for attending said Federal Grand Jury, on voucher No. 30, by [redacted], United States Marshal, District of Missouri, itemized as follows:

June 22, 1937 - Subsistence per diem $\frac{3}{4}$ day	\$ 3.75
- Mileage; 177 miles @ 5 cents	8.85
June 23, 1937 - Subsistence per diem 1 day	5.00
June 24, 1937 - Subsistence per diem $\frac{1}{2}$ day	2.50
- Mileage; 177 miles @ 5 cents	8.85
Total amount paid to witness	<u>\$28.95</u>

The voucher shows that such claimed expenses of transportation and subsistence of the witness were paid from the Department of Justice appropriation "Fees of Jurors and Witnesses, U. S. Courts, 1937."

Your submission discloses that the marshal subsequently re-

requested refund of the \$17.70 transportation expenses paid to the witness, alleging error in such payment, inasmuch as the witness--being an employee of the Government--was entitled to reimbursement only on the basis of his actual transportation expenses, instead of on a mileage basis.

The amounts of transportation and subsistence expenses paid to the witness do not appear to have been in excess of the amounts properly allowable to an employee of the Government while traveling on official business under paragraphs 12(a) and 45 of the Standardized Government Travel Regulations (1935). However, the payment of the \$28.95 expenses of transportation and subsistence from the Department of Justice appropriation "Fees of Witnesses, U. S. Courts" appears to have been improper and unauthorized, the established rule being that such appropriation is not chargeable with expenses of Government employees who appear as witnesses in Federal Courts where--as appears to be the case here--they appear in an official capacity to give evidence of facts acquired in their investigation of the matters upon which the cases are predicated, if there is an appropriation under the control of the Government service where the witnesses are regularly employed applicable to the payment of said expenses. While no appropriations are made for the current expenses of the Federal Deposit Insurance Corporation under the provisions of section 12B of the Federal Reserve Act, as amended, the Corporation has under its control funds available for the payment of all necessary expenses, including expenses of its examiners and other employees while traveling on official business for the Corporation. Therefore, under the principle of the decision in 5 Comp. Gen. 677, the subsistence and transportation expenses incurred by said witness properly are payable out of the same funds applicable to payment of other official expenses of the Federal Deposit Insurance Corporation.

Accordingly, credit for the unauthorized \$28.95 payment to the witness on said voucher No. 30, July 1937 account of
 , United States Marshal, St. Louis, Missouri, will be disallowed in the marshal's accounts. If such amount has been collected by your Corporation, it should be refunded to the marshal for use in the adjustment of his accounts.

Respectfully,

(Signed) R. N. Elliott

Acting Comptroller General
of the United States.