DOCUMENT RESUME

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[Claim for Deduction of Transportation Charges]. B-189054. August 31, 1977. 4 pp.

Decision re: Richardson Transfer & Storage Co., Inc.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law II.
Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).
Organization Concerned: Department of the Navy.
Authority: 31 U.S.C. 203. 41 U.S.C. 15. 49 U.S.C. 66(b)(Supp.V). 4 C.F.R. 52.38. 4 C.F.R. 53.3. 41 C.F.R. 101-41.309-2. United States v. Shannon, 342 U.S. 288 (1952). United States v. Aetna Casualty and Surety Co., 338 U.S. 366 (1949).

The claimant requested review of a settlement by the General Services Administration sustaining the deduction of the amount of a double payment made to the claimant and to an agent of the claimant from other moneys due the claimant. The carrier's claim for the transportation charges administratively deducted from them was disallowed, since the payment was made to the agent on behalf of the principal as prescribed by the applicable regulations. (Author/SC)

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DECISION

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

FILE: B-189054 DATE: August 31, 1977

MATTER OF: Richardson Transfer & Storage Co., Inc.

DIGEST: Carrier's claim for transportation charges administratively deducted from it is disallowed where payment was made to agent on behalf of principal as prescribed by applicable regulations.

Richardson Transfer & Storage Co., Inc. (Richardson), requests a review of a Settlement Certificate issued by the General Services Administration (GSA), January 31, 1977, sustaining the deduction of $351.60 by the Department of the Navy from other monies due Richardson. GSA reaffirmed the disallowance in its letter of April 6, 1977. The review of settlement is being made by this Office under the provisions of 49 U.S.C. 66(b) (Supp. V, 1975), and 4 C.F.R. 53.3 (1977).

The record shows that the household goods of BTC George F. Donahoo, USN, were transported from Yokohama, Japan, to a storage at destination warehouse in Oakland, California, under Government bill of lading (GBL) F-5504516, issued August 27, 1973. The shipment was delivered from the storage site to Hamilton Air Force Base, California, on October 24, 1973. Richardson billed and was paid the line haul charges of $1,596.17 by the Navy Regional Finance Center (NRFC) on February 28, 1974. Stans Vans, Inc. (Stans), an agent of Richardson, billed the NRFC for delivery, storage, warehouse handling and related charges, and was paid $344.98 by the NRFC on November 23, 1973. Approximately 13 months after the payment by the NRFC, Stans billed Richardson for the same services for which it had already been paid by the Government and was paid $372.89 by Richardson. Subsequently, Richardson billed the NRFC for $351.60, and was paid this amount on March 13, 1975. NRFC discovered that a duplicate payment had been made and recovered the $351.60 from Richardson by setoff from other monies due it. It is this setoff that is the basis for Richardson's claim.

Richardson states that it correctly billed for its charges and did not waive the charges to Stans as prescribed by the governing regulations in effect at the time of the movement of the household goods. 4 C.F.R. 52.38(a)(2)(1973), (now 41 C.F.R. 101-41.309-2(1976)). Richardson contends that the carrier must provide

a waiver to its agent to voucher for the charges and that the NRFC erred in its payment to Stans and in its subsequent setoff of $351.60 from Richardson.

The applicable regulation in effect at the time of the transportation movement was 4 C.F.R. 52.38 (1972) and it provides in pertinent part for the presentation and payment of carriers' bills for transportation to:

> "(1) The last carrier (including a freight forwarder) in privity with the contract of carriage as evidenced by the covering bill of lading; or
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> "(2) A participating carrier (including a freight forwarder) in privity with the contract of carriage as evidenced by the covering bill of lading, when submitted with a waiver accomplished by the last carrier (as described in subparagraph (1) of this paragraph) in favor of the billing carrier; or
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> "(3) A carrier (as described in subparagraph (1) of this paragraph) or its properly designated warehouse agent as authorized in § 52.42(c); or
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> "(4) An agent of the carriers (as described in subparagraph (1) or (2) of this paragraph) so long as the bill is submitted in the name of the principal. The agent's mailing address may be shown in such bills and the checks drawn in the name of the principal may be mailed to the agent."

It is true as stated by Richardson that a carrier may, at its option, accomplish a waiver and permit its agent to voucher and receive payment in the line haul carrier's name for all storage-in-transit, warehouse handling, and delivery out charges. 4 C.F.R. 52.38(2), supra. However, the regulation provides other alternatives as evidenced by the word "or," any of which will equally satisfy the billing requirements for payment of carrier's bills. Thus, 4 C.F.R. 52.38(4) provides that an agent of the carriers will be paid so long as the bill is submitted in the name of the principal. This was done in this case as evidenced by the Public Voucher For Transportation Charges which was made out on behalf of "RICHARDSON TRANSFER & STORAGE/STANS VANS." In addition, the payee's certificate on the voucher is similarly annotated. It can be assumed that the check from the NRFC was made out accordingly.

The record also indicates that the voucher was supported by a Statement Of Accessorial Services Perf[illegible]ed, showing Richardson/Stans, and several other forms including a Certification Of Delivery To Storage In Transit prepared by Stans.

Since the agent billed in the name of its principal, the applicable regulations were complied with. There was nothing in the record to put the Government on notice that Stans was not the proper payee, and the Government acted in good faith without notice of any defects in the record. If the bill had been presented for payment and was not in conformity with the requirements of 4 C.F.R. 52.38, it would have been returned to the carrier without action. See 4 C.F.R. 52.38(c) (1973).

We also note that Richardson waited almost 15 months after the payment to Stans before it billed the Government for the transportation charges. It is also noted that the December 1974 Voucher from Stans to Richardson states: "Unable to furnish original papers as mailed to Finance Ctr. in error." Further, Richardson's voucher for payment of February 19, 1975, to NRFC states that: "We do not have original DD619 for storage in transit charges, nor proof of delivery. In the event the originals are located they will be forwarded directly to the GAO." Therefore, the long period of time before a bill was rendered seems to indicate that the usual procedure followed by Richardson was to allow its agent to bill directly for its charges. And the annotation on the voucher show that Richardson had knowledge of the mailing of the proper forms to NRFC and was therefore on notice as to a prior billing by Stans.

The cited regulations are more than mere guidance for the paying agencies; they implement the so-called anti-assignment statutes, 31 U.S.C. 203 (1970) and 41 U.S.C. 15 (1970). The courts have declared the purposes of 31 U.S.C. 203 to be: (1) that the Government might not be harassed by multiplying the number of persons with whom it had to deal, (2) to prevent possible multiple payments of claims, (3) to make unnecessary the investigation of alleged assignments, powers of attorney and other authorizations, (4) to enable the Government to deal only with the original contractor (claimant), and (5) to save to the United States defenses which it has to claims by an assignor by way of setoff and counterclaim which might not be applicable to an assignee. United States v. Shannon, 342 U.S. 288 (1952); United States v. Aetna Casualty and Surety Co., 338 U.S. 366 (1949).

The record does indicate, as Richardson states, that NRFC attempted to collect the $351.60 back from Stans; however, it was under no obligation to do so. As previously stated, the voucher was presented in the correct manner and payment was made to Stans as agent and in the name of its principal, Richardson. The Government paid its full liability under the bill of lading contract. Richardson's only recourse is against its agent Stans with which it contracted for payment.

Accordingly, the claim of Richardson for $351.60 is disallowed.

Deputy Comptroller General
of the United States