

DECISION



13574 *Plm-1 Mr. Heitzman*  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-197366

DATE: April 28, 1980

MATTER OF: Charles W. Miller *(REQUEST for)* Real Estate Expenses Loan  
Origination Fee *→*

DIGEST: Employee may not be reimbursed loan origination fee incurred incident to purchasing a house since fee is finance charge within the meaning of Regulation Z, 12 C.F.R. § 226.4(a)(2) (1979); therefore, it is not a reimbursable item under paragraph 2-6.2d of the Federal Travel Regulations.

This action is in response to a request dated January 3, 1980, from an authorized certifying officer of the Federal Mediation and Conciliation Service, regarding the propriety of certifying *AG00044* for payment a reclaim voucher in the amount of \$567.20 in favor of Mr. Charles W. Miller, an employee of the Service. The reclaim voucher represents a loan origination fee incurred for the purchase of a residence in Perrysburg, Ohio, pursuant to a permanent change of station from Columbus, Ohio.

Mr. Miller's claim was denied by the Federal Mediation and Conciliation Service on the basis of Comptroller General decision B-178235, May 7, 1973, which held that a loan origination charge was no longer a reimbursable item under authority of the Federal Travel Regulations.

Authority to reimburse a Government employee to the extent considered "necessary and appropriate" for "all or a part of" the expenses incurred in connection with the purchase of a residence upon official transfer of station is found in section 5724a(a)(4) of title 5, United States Code (1976). Power to prescribe regulations implementing the above statute is given to the President. The President delegated his function under the statute to the Administrator of the General Services Administration (GSA) by Executive Order No. 11609, July 22, 1971. The governing regulations promulgated by the GSA are contained in chapter 2, part 6, of the Federal Travel Regulations (FPMR 101-7) (May 1973).  
*F.T.R. para 2-6*

Paragraph 2-6.2d of the FTR, which defines which miscellaneous expenses are reimbursable in connection with the purchase and sale of residences provides in pertinent part that:

*410017*

*112181*

" \* \* \* no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Public Law 90-321, and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System. \* \* \*"

Regulation Z (12 C.F.R. Part 226) was promulgated by the Board of Governors of the Federal Reserve System pursuant to the Truth in Lending Act. The pertinent part of Regulation Z states:

"226.4 Determination of finance charge.

"(a) General rule. Except as otherwise provided in this section, the amount of the finance charge in connection with any transaction shall be determined as the sum of all charges, payable directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, whether paid or payable by the customer, the seller, or any other person on behalf of the customer to the creditor or to a third party, including any of the following types of charges:

\* \* \* \* \*

"(2) Service, transaction, activity, or carrying charge.

"(3) Loan fee, points, finder's fee, or similar charge."

Mr. Miller contends that a letter from the lending bank stipulates that the \$567.20 charge is a service fee for the processing of a mortgage loan and not interest or a part of any finance charge. A further inquiry by Mr. Miller of his lending bank indicates that the service fee charged is a flat 1 percent of the amount borrowed. Such a fee which varies in total amount in direct proportion to the amount borrowed is more in the nature of a charge for money than reimbursement for administrative costs of processing the loan. As such, this fee

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may be described as a "loan fee" within the meaning of Regulation Z, 12 C.F.R. § 226.4(a)(3) (1979). Wayne E. Webb, B-196689, December 13, 1979. Further, our Office has held that a loan origination fee which covers internal and administrative costs without any further itemization is not reimbursable because it is regarded as a finance charge under Regulation Z. Kenneth DeFazio, B-191038, November 28, 1978; William N. Bagget, B-187123, February 7, 1977. We note also that the letter from the lending bank specifically states that the disputed amount is a loan origination fee since it states "Our Loan Origination Fee is also called our Service Fee."

Mr. Miller's entitlement is statutory in nature and is provided for by the cited regulations. We do not have any authority to change them. Wayne E. Webb, supra; Donald W. Espeland, B-186583, April 11, 1977, affirmed March 30, 1978.

Accordingly, the voucher may not be certified for payment.



For The Comptroller General  
of the United States