



Office of the General Counsel

B-228817

September 22, 1988

The Honorable Jesse Helms
United States Senate

Dear Senator Helms:

This responds to the interest expressed in your correspondence of March 28, 1988, concerning Major [redacted], USMC, [redacted], involving a request for waiver of a personal debt resulting from household goods shipping expenses.

Major [redacted] debt to the United States arose in connection with a shipment of household goods on a Government Bill of Lading (GBL) in which the goods shipped exceeded the authorized weight limitation. The submission from the Marine Corps Finance Center indicates that the excess weight charge resulted from a shipment of household goods weighing 18,000 pounds which is believed to be erroneous because Major [redacted] shipments usually average 11,000 pounds. Additionally, it is stated that Major [redacted] requested a reweigh at destination but the carrier did not comply with the request. The submission refers to a shipment made in connection with a permanent change of station from Okinawa to Cherry Point, North Carolina, which occurred pursuant to orders issued in 1986.

Our examination of the record shows that the overweight charges were incurred incident to Major [redacted] change of station from Cherry Point to Okinawa under orders dated May 13, 1985, and involved three shipments on GBLs, taking place in June and July 1985, not on his reassignment in 1986 to Cherry Point from Okinawa.

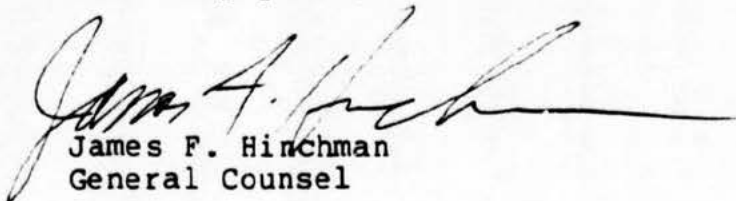
Section 2774 of title 10, United States Code, authorizes the waiver of a claim of the United States against a person when the claim arose as a result of an erroneous payment of pay or allowances and collection of the claim would be against equity and good conscience and not in the best interests of the United States. Public Law 99-224, December 28, 1985, 99 Stat. 1741, expanded this authority to include waiver of erroneous payments of travel and transportation allowances occurring after the effective date of the amendment.

On the basis of the record before us it appears that the shipment of Major household goods and presumably payment for the shipment occurred prior to the effective date of the amendment and therefore may not be considered for waiver under 10 U.S.C. § 2774.

In any event, even if the transportation bills were paid after December 28, 1985, debts arising out of shipments of household goods which exceed weight limitations will not be considered for waiver unless error can be shown on the part of the government. When a household goods shipment is made on a GBL, there is a contract between the government and the carrier under which the carrier is entitled to be paid for its services. It is standard practice for the government to pay for the services and if excess weight is involved the government collects from the member the costs associated with the excess weight. There is no "erroneous payment" for the purposes of the waiver statute where the government pays or bears the cost of a household goods shipment which exceeds the applicable weight limitation in reliance on collection of overweight charges from the member. Transportation Debt Waivers - Household Goods and Mobile Homes, B-229337, June 21, 1988.

We trust this serves the purpose of your inquiry.

Sincerely yours,



James F. Hinchman
General Counsel