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**DECISION**



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

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FILE: B-182835

DATE: February 7, 1975

MATTER OF: Robert Kuessner - Relocation expenses - Loan origination fees

DIGEST: Although employee, who incurred loan origination fees in June 1972, claimed reimbursement on ground he relied on obsolete regulations allowing such reimbursement, his claim was properly disallowed since section 4.2d of Office of Management and Budget Circular A-56, effective September 1, 1971, precludes reimbursement for real estate expenses incurred incident to transfer which are considered finance charges under Truth in Lending Act and Regulation Z issued pursuant thereto and regulation is binding although employee had no knowledge of it.

Pursuant to a request submitted on behalf of Mr. Robert Kuessner by Congresswoman Marjorie S. Holt, we have reviewed the disallowance of his claim for reimbursement for a loan origination fee of \$892 incurred incident to a transfer of duty station in 1972.

The record indicates that Mr. Kuessner was transferred by Travel Order 2-WFS-0682, dated February 10, 1972, from Suitland, Maryland, to San Juan, Puerto Rico. Among the expenses incurred in making the transfer was a fee of \$892 to cover the costs involved in originating and closing a loan for the financing of a new home on June 19, 1972. The claim for reimbursement for this expenditure, Claim Number Z-2505438, was disallowed by our Transportation and Claims Division in its Settlement Certificate dated October 10, 1973. Mr. Kuessner believes that he should be reimbursed since such costs were reimbursable under obsolete regulations which were at his disposal.

Section 5724a of title 5, United States Code (1970), authorizes reimbursement for real estate expenses as follows:

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the following expenses of an employee for whom the Government pays expenses of travel and transportation under section 5724(a) of this title:

\* \* \* \* \*

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B-182835

"(4) Expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old station and purchase of a home at the new official station required to be paid by him when the old and new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. \* \* \*"  
(Underscoring supplied.)

The regulatory authority vested in the President by the above-quoted provision was initially delegated to the Bureau of the Budget. Section 4.2d of Bureau of the Budget Circular No. A-56, Revised, October 12, 1966, specifically provided for reimbursement for lender's loan origination fees but precluded reimbursement for mortgage discounts (points) and interest on loans. However, by a revision of Bureau of the Budget Circular No. A-56, effective June 26, 1969, authority to reimburse employees for loan origination fees was removed. This revision amended section 4.2d to provide in pertinent part as follows:

"\* \* \* Notwithstanding the above, 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. Property taxes and operating or maintenance costs also are not reimbursable. \* \* \*"

The revised regulation was incorporated in Office of Management and Budget Circular No. A-56, effective September 1, 1971, which was in effect at the time Mr. Kuessner's expenses were incurred.

Regulation Z made loan origination fees part of the finance charge and, therefore, nonreimbursable expenses. 12 C.F.R. §226.4(a)(3) (1972); 49 Comp. Gen. 483 at 486 (1970); B-169367, April 17, 1970; B-171056, November 27, 1970; B-176362, August 7, 1972. That regulation became effective on July 1, 1969, 34 Fed. Reg. 2002 (1969). Therefore, lender's loan origination fees had not been reimbursable for nearly three years when the

B-182835

\$892 fee in question here was incurred in June 1972. As the regulations are binding despite lack of actual knowledge of them, the unfortunate fact that Mr. Kuessner relied on obsolete regulations does not form a basis for allowing his claim. B-168490, January 5, 1970.

Accordingly the disallowance of Mr. Kuessner's claim is sustained.

R.F.KELLER

Acting Comptroller General  
of the United States