

DOCUMENT RESUME

03555 - [A2713919]

[Erroneous Payment of Certain Relocation Expenses]. B-189701.  
September 23, 1977. 3 pp.

Decision re: Robert F. Granico; by Robert F. Keller, Deputy  
Comptroller General.

Issue Area: Personnel Management and Compensation. Compensation  
(305).

Contact: Office of the General Counsel: Civilian Personnel.  
Budget Function: General Government: Central Personnel  
Management (805).

Organization Concerned: Federal Aviation Administration.

Authority: Federal Claims Collection Act (31 U.S.C. 951 et  
seq.). 5 U.S.C. 5723. 5 U.S.C. 5584 (Supp. V). 31 U.S.C. 74.  
28 U.S.C. 1346(a)(2). 28 U.S.C. 1491. 28 U.S.C. 2401. 28  
U.S.C. 2501. 54 Comp. Gen. 747. 56 Comp. Gen. 131. B-187173  
(1976). E-180674 (1974).

An employee appealed the settlement of a claim for  
reimbursement of certain travel and relocation expenses which  
had been erroneously paid. The employee's request for waiver of  
recovery of the overpayment was denied because the applicable  
statute specifically limits payments of pay or allowances other  
than travel, transportation, or relocation expenses. (SW)

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V. G. P. P.

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

FILE: B-189701

DATE: September 23, 1977

**MATTER OF: Robert F. Granico -- Erroneous payment of  
certain relocation expenses**

**DIGEST:** Employee, who was hired as new appointee to manpower-shortage position, was erroneously authorized and reimbursed for certain travel and relocation expenses in excess of that permitted under 5 U.S.C. 5723. Employee must repay amounts erroneously paid since Government is not estopped from repudiating erroneous advice or authorizations of its agents. There is no authority for waiver under 5 U.S.C. 5584 and no basis for compromise or termination of collection action under Federal Claims Collection Act.

This action is in response to the appeal of the settlement issued February 15, 1977, by our Claims Division concerning the claim of the United States against Mr. Robert F. Granico in the amount of \$639.98 for reimbursement of certain travel and relocation expenses which had been erroneously paid.

Briefly stated, the record indicates that Mr. Granico was hired as a new appointee by the Federal Aviation Administration (FAA) as an Airport Police Officer, a position for which the Civil Service Commission had determined there was a manpower shortage. Mr. Granico was authorized to travel from his home in Monroeville, Pennsylvania, to his first duty station at Dulles International Airport, near Chantilly, Virginia, but he was erroneously authorized and reimbursed for per diem for his wife, subsistence expenses while occupying temporary quarters, and miscellaneous moving expenses. This error resulted in an overpayment of \$639.98.

The Claims Division settlement noted that under the pertinent provisions of the Federal Travel Regulations Mr. Granico was entitled only to transportation expenses for himself and his immediate family, per diem for himself, and shipment of his household goods. See 5 U.S.C. 5723 (1970). The settlement stated further that the United States is not bound by the erroneous acts of its agents and that the overpayment may not be waived under the provisions of 5 U.S.C. 5584 (Supp. V, 1975) since that statute specifically excludes claims arising out of travel and transportation allowances or relocation expenses.

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On appeal Mr. Granico states that he initially considered refusing the job offer in Virginia until he was advised by a FAA official that he would be reimbursed for certain travel, transportation, and relocation expenses. Mr. Granico feels that to repay the overpayment of travel and relocation expenses is unjust and would cause he and his family an extreme financial hardship.

It is unfortunate that Mr. Granico was promised and later authorized reimbursement for certain travel and relocation expenses which were not properly allowable to him under applicable laws and regulations. However, it is a well-settled rule of law that the Government cannot be bound beyond the actual authority conferred upon its agents by statute or by regulations. See Matter of M. Reza Fassihi, 54 Comp. Gen. 747 (1975) and cases cited therein. The Government is not estopped from repudiating advice given by one of its officials if that advice is erroneous, and any payments made on the basis of such erroneous advice or authorizations are recoverable. Matter of Joseph Pradarits, 56 Comp. Gen. 131 (1976); and Matter of T.N. Beard, B-187173, October 4, 1976.

Mr. Granico has noted that our Office has, in certain cases, waived collection where payments have been made based on the erroneous advice or authorizations of Government officials. However, as pointed out in our Claims Division settlement, the authority for waiver of overpayments under 5 U.S.C. 5584 is specifically limited to payments of pay or allowances other than travel and transportation allowances or relocation expenses.

Mr. Granico has also questioned whether collection action may be terminated under the authority of the Federal Claims Collection Act, 31 U.S.C. 951 et seq. Under that authority the head of an agency may terminate collection under certain conditions, but where there is a present or prospective ability to pay on the debt such as Mr. Granico's continued employment, collection must be attempted. See 31 U.S.C. 952 and Matter of Dr. Brian J. Battersby, B-180674, November 25, 1974.

Accordingly, we sustain the action of our Claims Division in disallowing Mr. Granico's claim.

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With regard to the request as to what other courses of action are available to Mr. Granico, he is advised that decisions of the Comptroller General of the United States rendered on claims settled by the General Accounting Office are conclusive upon the Executive branch of the Government. 31 U.S.C. 74. Independent of the jurisdiction of the General Accounting Office, the United States Court of Claims and the United States District Courts have jurisdiction to consider certain claims against the Government if suit is filed within 6 years after the claim first accrued. See 28 U.S.C. 1346 (a)(2), 1491, 2401, and 2501.

*Pratt*  
Deputy Comptroller General  
of the United States