



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: MS1 Johnny Singletary, USN (Ret)

File: B-254328

Date: November 17, 1993

DIGEST

Former Navy member's request for waiver of his debt to the United States which arose when an extra paycheck was issued upon his retirement from the service and automatically deposited in his bank account is denied because former member is not without fault. 10 U.S.C. § 2774, which authorizes waiver of debts to the United States in appropriate circumstances, bars waiver when the member should have been aware of the erroneous payment resulting in the debt and therefore is considered to be at fault in not returning the erroneous payment.

DECISION

Petty Officer Johnny Singletary (Retired) has appealed the settlement of our Claims Group, which denied his request for waiver of the government's claim against him for funds he erroneously received upon retirement from the U.S. Navy. We affirm the Claim Group's settlement.

Mr. Singletary retired on August 4, 1992, and he received a final payment of \$996.86. However, due to an administrative error, his regular active duty pay check of \$813.59 was deposited in his bank account under a direct deposit system on September 1, 1992. Credits have reduced the overpayment to \$800.65.

Section 2774(a) of title 10, United States Code authorizes the Comptroller General to waive claims for erroneous payments to members or former members of the uniformed services, for pay and allowances, if collecting the claim would be against equity and good conscience, and not in the best interest of the United States. Further, waiver can only be granted if it is shown that the claim arose because of an administrative error, with no indication of fraud, fault, misrepresentation or lack of good faith by the member

or any other person in accepting the overpayment. 10 U.S.C. § 2774(b).

The standard we employ in determining whether a member was at fault in accepting an overpayment is whether, under the particular circumstances involved, a reasonable person would have been aware that he or she was receiving more than his or her proper entitlement. Louis K. Early, Jr., B-240761, Nov. 7, 1990.

When a deposit was made to Mr. Singletary's account subsequent to his retirement and he received a bank statement showing the date of the deposit as being approximately 1 month after his receipt of a final payment, he should have been aware of the overpayment. While Mr. Singletary states that he checked back at the disbursing office of his last duty station and was given the impression everything was in order, the fact of the matter is that Mr. Singletary had received his final payment and should not have expected to receive any further deposits from the Navy.

The fact that a member has pay sent directly to a bank does not relieve the member of the responsibility of verifying bank statements, questioning any discrepancies and setting the money aside for repayment. Susan J. Carroll, B-252672, Sept. 20, 1993.

Regarding Mr. Singletary's concern that not all the documents he submitted were reviewed, both our Claims Group and this Office received all the documents submitted and they were considered in reaching the decision to deny waiver.

Accordingly, we deny the request for waiver.

for *Seppinour E. F.*
James F. Hinchman
General Counsel