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# DECISION



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

FILE: B-219887

DATE: January 21, 1986

MATTER OF: Fraudulent Claim

**DIGEST:** An Army member presented a voucher for meal costs and other travel expenses relating to temporary duty at a high-cost geographical area. The record shows that the voucher contained identical meal amounts for 26 days, the total daily amounts approached the high-cost area ceiling, and the claimant admitted that he claimed inaccurate amounts for meals and gave an inaccurate statement concerning their nature. Where there are strong indications of fraud, as here, failure to prosecute does not preclude disallowance of the particular item and all daily subsistence expenses tainted by the fraudulent item. The Claims Group's settlement is sustained.

This is a review of action taken by our Claims Group in denying claims presented by an Army Sergeant for meal costs and other temporary duty travel expenses.<sup>1/</sup>

We sustain the disallowance of the claim for subsistence expenses in view of the fact that the claim for meal costs was not predicated upon actual expenses, an indication of fraud which taints the subsistence cost claims for each day of temporary duty worked.

## Facts

In January 1983 the claimant was ordered by the 2d Armored Division, Fort Hood, Texas, to temporary duty for training at Fort Lee, Virginia, a high-cost area. The member presented a travel voucher for lodging, meals, transportation and other expenses but the finance officer refused to settle the claims based on his determination that the claim for meals was fraudulent. Although the Military Police after investigating the facts did not pursue charges because they

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<sup>1/</sup> Our Claims Group disallowed the claim, No. Z-2854148, by Settlement Certificate dated June 1984.

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found the evidence inconclusive on the question of fraud, the finance officer, retaining suspicions of fraud, refused to pay the claim. The matter was forwarded to our Claims Group for direct settlement. The Claims Group's settlement, in effect, upheld the finding of fraud, the practical effect of which was to deny payment for all lodging and meal expenses claimed.

The agency's suspicions of fraud were based on three aspects of the member's travel voucher: (1) the amounts claimed for meals for 27 consecutive days of temporary duty, except one, were identical; (2) the total daily cost of meals and lodgings was within one dollar of the ceiling allowed for the high-cost area involved; and (3) the claimant changed his statement concerning the meal costs claimed when confronted with facts which conflicted with his original statement. In the latter case, he stated originally that the daily uniformity in amounts spent for meals resulted from the fact that he ate similar buffet meals each day, but he subsequently said that he ordered meals from a menu when faced with the restaurant's statement that the buffet was not offered every day and that the cost of the buffet was less than he claimed.

Under oath, the claimant explained that the amounts claimed were actually incurred; that, despite a proportion of menu and buffet meals, medical requirements dictated that he consume about the same meals daily; and that the uniformity in amount was affected also by tax and variations in tips. He explained that the total daily amount for meals approached the high-cost area ceiling because medical requirements dictated use of an expensive full-service restaurant rather than fast food facilities. He also stated that he was told that he would be allowed up to \$55 daily.

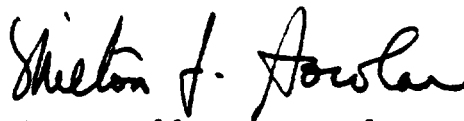
#### Discussion

The facts of each case determine whether fraud exists. In this case although the investigation did not result in any criminal charges, the indications of fraud had not been satisfactorily explained. We have consistently stated the view that failure to prosecute criminally for fraud does not preclude administrative action on a voucher where fraudulent action is strongly indicated. 57 Comp. Gen. 664, 669 (1978); Fraudulent Travel Voucher, B-212354, August 31, 1983.

Where any subsistence item shown on a voucher for a particular day is fraudulent, the finding taints the entire per diem or actual expenses for that day. See Per Diem Claim, 60 Comp. Gen. 357 (1981).

Based upon the facts reported, particularly the claimant's admissions that the amounts claimed for meals were not accurate and that his first explanation concerning eating buffet meals was not correct, we must uphold the agency action disallowing all subsistence expenses for the temporary duty involved because each day's claim for such expenses is tainted with fraud.

Accordingly, our Claims Group's settlement is sustained.

*for*   
Comptroller General  
of the United States