



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Barbara Cox

File: B-270431

Date: June 10, 1996

DIGEST

Where member's spouse submits a travel claim, which is settled and paid, and then submits a supplemental claim which is fraudulent, the prior claim which was settled is not subject to the "tainted day" rule, and the second claim should be denied.

DECISION

The Defense Finance and Accounting Service (DFAS), Columbus Center, has requested our decision regarding the proper action to be taken following the submission of a fraudulent claim for travel expenses by Barbara Cox, the spouse of a Navy member.

Mrs. Cox's husband is stationed at the Naval Station, Rota, Spain. On March 30, 1994, travel orders were issued for Mrs. Cox to travel to Landstuhl, Germany, for outpatient medical treatment. She was paid a travel advance of \$2,560 and departed Spain on April 18, 1994, and returned on May 25, 1994.

On August 15, 1994, she submitted her travel claim listing various amounts for some meals during the period. The total for meals was \$553.37. Following review, her claim was approved in the amount of \$1,099.76, leaving an outstanding balance from her travel advance of \$1,460.24, to be collected. She was accordingly notified that she owed that amount. Subsequently, Mrs. Cox submitted a second supplemental claim in which she listed \$12 for every breakfast and lunch during the period and \$20 for every dinner, totaling \$44 per day, the maximum allowable. Upon receipt of the second claim, the Office of Command Investigations (OCI) was alerted to the possibility of a fraudulent claim. Following an investigation, OCI found the second claim to be fraudulent and DFAS agreed with such a finding.

The matter was submitted to our Office because the disbursing officer questioned whether the submission of the second claim tainted the entire claim so that the travel advance of \$2,560 should be recouped or, since the first claim had been approved, only \$1,460.24 need be recouped.

Under the "tainted day" rule, a fraudulent claim for reimbursement for any part of a single day's subsistence expenses taints with fraud the entire day's subsistence expenses. 59 Comp. Gen. 99 (1979). Here, the claimant has submitted two separate claims for each day of the period in question. As stated above, the amount of the first claim was accepted and credited against the outstanding balance from the claimant's travel advance, and the agency asked her to pay the balance. In effect, the agency has paid the first claim to the claimant. There is no suggestion of fraud involved with this claim. It is only the second or supplemental claim that is fraudulent. In these circumstances, each of these claims should be regarded as a separate claim, and the tainted day rule may only be applied to the second claim. See 59 Comp. Gen. at 100-101, supra.

Accordingly, only the amount of \$1,460.24, should be recouped.

/s/Seymour Efros
for Robert P. Murphy
General Counsel