69TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 1529

HOMER H. HACKER

JUNE 23, 1926.—Committed to the Committee of the Whole House and ordered to be printed

Mr. BOX, from the Committee on Claims, submitted the following

REPORT

[To accompany S. 3462]

The Committee on Claims, to whom was referred the bill (S. 3462) for the relief of Homer H. Hacker, having considered the same, report thereon with a recommendation that it do pass.

STATEMENT OF FACTS

On July 21, 1919, Mr. Homer H. Hacker purchased from the Kenilworth rural station of the post office at Biltmore, N. C., money order No. 487 for the amount of $100 in favor of his mother, Mrs. Betty Hacker, 4511 Sycamore Street, Dallas, Tex. At the time Mr. Hacker was confined in the United States General Hospital No. 12, at Biltmore, N. C. Accompanying statements, included in this report, show that this money order was purchased as stated. The postmaster at Dallas advises that there was available to him no record of the payment of this money order at his office, all records for the year 1919 having been destroyed. Mrs. Betty Hacker, in whose favor the money order was issued, states that she is Homer H. Hacker's mother; that she was residing in Dallas, Tex., on July 21, 1919, and has since resided there, and that she did not receive or collect post-office money order No. 487 purchased and forwarded to her by her son. Attached herewith is her affidavit to that effect, and that of Homer H. Hacker, the son, stating that he purchased the money order and forwarded it to her. The affidavit of I. J. Hacker, brother of Homer H. Hacker, included with this report, states in effect that the mother did not receive the money order mentioned, and that he had ample opportunity to know it and would have known it if his mother had received and cashed the money order mentioned. The Comptroller General, acting by R. S. Tower, advises that the records of his office do not show this money order outstanding uncollected as they should do if it was not collected.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

The records of the payment of post-office money orders kept by the Dallas office for the year 1919 appear to have been destroyed in compliance with law prior to the presentation of this claim. Its presentation was delayed by the fact that the mother did not know that the son had sent the money order and the son did not for a long time know that the mother had not received it. The Postmaster General does not recommend the allowance of the claim. He does not dispute that the money order was purchased and forwarded by the son nor contend that it was received or collected by the mother.

The facts of the case present squarely the issue as to whether the Government should reimburse for the loss of this amount resulting as stated. Your committee has reviewed all of the evidence and has reached the conclusion that the mother did not receive this money order or collect it; that the amount thereof has therefore been lost without fault on the part of Mr. Hacker or his mother. It is not easy to account for the state of the records in the Comptroller General's office, but that record is believed to be insufficient under the facts of this transaction to contradict the very plain evidence that the money order was not received or collected by the payee.

The question as to whether or not the Government should follow the policy of holding itself liable for this demand and others like it is submitted to the House for its consideration in connection with section 1110 of the Postal Laws and Regulations, which is as follows:

After an order has once been paid as a money-order office, by whomsoever presented, the department will not consider any further claim therefor, but in case of wrong payment it will endeavor to recover the amount for the owner, provided such wrong payment did not result from the fault of the remitter, payee, or indorsee.

UNITED STATES POST OFFICE,
Biltmore, N. C., October 14, 1924.

POSTMASTER, *Dallas, Tex.*

Please state below the date of payment of money order issued at this office, namely:

Amount, $100. Serial No. 487.
Dated July 21.
Remitter, Homer H. Hacker.
Payee, Mrs. Bettie Hacker.

Please mail this card to the remitter, whose address is written on the other side.

L. D. MANEY, *Acting Postmaster.*

UNITED STATES POST OFFICE,
Biltmore, N. C., March 10, 1926.

Hon. EARLE B. MAYFIELD,
United States Senate, Washington, D. C.

DEAR SIR: Receipt is acknowledged of your letter of March 5, 1926.

Money order No. 487 was issued from Kenilworth rural station July 21, 1919, for the amount of $100, in favor of Mrs. Bettie Hacker, 4511 Sycamore Street, Dallas, Tex., and the remitter was Capt. H. H. Hacker, United States General Hospital No. 12, Biltmore, N. C.

Yours very truly,

W. B. HEMPHILL, *Acting Postmaster.*

UNITED STATES POST OFFICE,
Dallas, Tex., March 10, 1926.

Mr. HOMER H. HACKER,
Dallas, Tex.

DEAR SIR: This is to acknowledge receipt of your communication of March 9, relative to money order No. 487 issued on July 21, 1919, at Kenilworth rural station, Biltmore, N. C., amount $100, payable to your mother at Dallas, Tex.

In this connection beg to advise that I am very sorry that I can not advise you the date of payment of this order, if same was paid at this office, as all records for the year of 1919 have been destroyed. Your letter and copy of letter addressed to Hon. Earle B. Mayfield returned as requested.

Respectfully yours,

JNO. W. PHILP, *Postmaster.*
By ———— ————,
Assistant Postmaster.

UNITED STATES POST OFFICE,
Dallas, Tex., March 24, 1926.

Mr. H. H. HACKER,
Dallas, Tex.

DEAR SIR: Inclosed please find copy of letter I have to-day addressed to the Comptroller General of the United States in an effort to secure some definite information for you regarding money order in question.

As soon as I have further communication will be glad to advise you.

With my kindest regards, I am,

Most sincerely yours,

JNO. W. PHILP.

DALLAS, TEX., *March 24, 1926.*

Hon. J. R. MCCARL,
Comptroller General of the United States,
Washington, D. C.

MY DEAR SIR: It seems there was a money order issued on July 21, 1919, Kenilworth rural station, Biltmore, N. C., for the amount of $100, payable to Mrs. Bettie Hacker, Dallas, Tex., and purchased by Mr. Homer H. Hacker. It appears that Mrs. Hacker never received this order, and as far as the purchaser is able to determine the money was lost.

The purchaser has requested me to furnish the record of either payment or nonpayment of this order; as the records of that year for this office have been destroyed, I am unable to advise Mr. Hacker whether or not the order was paid by this office.

Will you be kind enough to furnish me with a certificate, if possible, as to what your records show regarding the above order, that I may communicate it to Mr. Hacker?

I might add that Mr. Hacker has appealed to United States Senator Earle B. Mayfield for relief, and Senator Mayfield has introduced a bill in the Senate of the United States known as S. 3462, which bill authorizes the Treasury to reimburse Mr. Hacker in the sum of $100 for the loss.

Senator Mayfield has asked Mr. Hacker for an official record of the handling of the order, and this letter is prompted by a desire to comply with that request.

Most sincerely yours,

JOHN W. PHILP, *Postmaster.*

STATE OF TEXAS,
County of Dallas:

To whom it may concern:

Before me, the undersigned authority, on this day personally appeared Mrs. Bettie Hacker, who being first duly sworn did depose and say:

1. That she is the mother of Homer H. Hacker.

2. That she is at present residing at No. 5412 Alton Street, Dallas, Tex. That from June 21, 1919, to August 9, 1919, she resided at 4511 Sycamore Street, Dallas, Tex.

3. That from dates of June 21, 1919, to August 9, 1919, I addressed letters to Homer H. Hacker at United States General Hospital, Kenilworth, Biltmore, N. C. I understand this to be a United States Army hospital.

4. From and between said dates of June 21, 1919, and August 9, 1919, I did not receive a money order for any amount from my said son, Homer H. Hacker. I further state that I have never received a money order from my said son from Biltmore, N. C.

Mrs. BETTIE HACKER.

Sworn to and subscribed before me this the 13th day of January, A. D. 1925.

[SEAL.]

L. H. BETTS,
Notary Public, Dallas County, Tex.

STATE OF TEXAS,
County of Dallas.

To whom it may concern:

Before me, the undersigned authority, on this day personally appeared Homer H. Hacker, who being duly sworn, did depose and say:

1. Kenilworth was a United States Army General Hospital No. 12. It had located in said hospital a United States post office which was a branch of the United States post office at Biltmore, N. C.

2. From about June 21, 1919, to August 9, 1919, I was a patient at said hospital. I was in the United States Army at that time.

3. That on or about July 21, 1919, while a patient at said hospital, I purchased a money order for the amount of $100 payable to my mother, Mrs. Bettie Hacker, 4511 Sycamore Street, Dallas, Tex., and mailed the same to my mother on that date. This money order was purchased at the said substation of the Biltmore post office located in said hospital.

4. On about the 1st of October, A. D. 1924, in a conversation with my mother regarding the issuance of money orders by substations of United States post offices, I discovered that she had never received said money order. My mother was of the opinion that such substations or branch offices did not have authority to issue money orders. I then revealed the fact that I had mailed her the money order purchased as above stated, and asked if she did not recall that. She stated that she had never received it.

5. Following this conversation I made inquiry of the post office officials at Dallas, Tex., and found that they had no record of having paid such a money order.

6. The records of the Biltmore post office, Biltmore, N. C., will show that money order No. 487 was issued from the Kenilworth station July 21, 1919, for the amount of $100 drawn on Dallas, Tex.; remitter, Homer H. Hacker; payee, Mrs. Bettie Hacker.

HOMER H. HACKER.

Sworn to and subscribed before me this the 13th day of January, A. D., 1925.

[SEAL.]

L. H. BETTS,
Notary Public, Dallas County, Tex.

STATE OF TEXAS,
County of Dallas.

To whom it may concern:

This is to certify that my name is Isaac J. Hacker, and that I am the son of Mrs. Bettie Hacker and the brother of Homer H. Hacker, sr.

That during the year 1919 I continuously lived with my mother, in the same house, and that at all times my mother confided in me, and that she always informed me when she would receive money and the amount from my brother Homer H. Hacker, and that my brother did send her money from time to time.

That during the months of June, July, and August, 1919, my mother did receive letters from my brother, Homer H. Hacker, sr., and that he was confined in the United States General Hospital, Army, No. 12, Biltmore (Kenilworth), N. C., and that my mother wrote him to this address. The reason I know is that I have read the letters that my mother would receive from him, and that I would read the letters and mail them, that was sent to my brother, Homer H. Hacker, and that they were addressed as stated above.

That during the months of June, July, or August, 1919, and to my knowledge since that time, my mother, Mrs. Bettie Hacker, did not and has not received a letter from Homer H. Hacker containing a post-office money order to the sum of $100 prior to that time. I would always cash or have them cashed for my mother. Furthermore, during the months of June, July, and August, 1919, my mother did not receive a $100 money order from my brother, Homer H. Hacker, directly or indirectly; neither has she received that amount since that time.

I. J. HACKER.

Subscribed and sworn to before me this 10th day of March, A. D. 1926.

[SEAL.] L. D. WILSON,
Notary Public, Dallas County, Tex.

GENERAL ACCOUNTING OFFICE,
Washington, January 8, 1925.

Mr. HOMER H. HACKER, *Dallas, Tex.*

SIR: With reference to your communication dated December 22 relative to your application for a warrant in lieu of the money order described below, you are advised that the records do not show that any money order for $100 issued at Biltmore, N. C., or at the Kenilworth rural station of that office on or about July 1, 1919, is outstanding and unpaid. If the money order described in your application was actually issued, it evidently has been paid. The exact particulars of its payment can not be supplied for the reason that paid money orders are destroyed after the lapse of three years, as required by the act of Congress of May 27, 1908.

Respectfully,

J. R. MCCARL, *Comptroller General.*
By R. S. TOWER.

POST OFFICE DEPARTMENT,
THIRD ASSISTANT POSTMASTER GENERAL,
Washington, July 29, 1925.

Mr. HOMER H. HACKER, *Dallas, Tex.*

MY DEAR SIR: Reference is made to previous correspondence and receipt is acknowledged of your letter of the 20th instant relative to your claim for reimbursement on account of alleged wrong payment of the money order described above. You ask that the affidavits and other papers submitted with your letter of May 20, 1925, be returned to you, and call attention to the reasons set forth in the affidavit relative to your delay in making claim.

The papers mentioned are herewith returned in compliance with your request. This office would gladly take any action or make suggestion if there was any known method of affording you relief. There is no appropriation available for that purpose, and in cases where inquiry shows that a money order has been wrongly paid it is necessary for the department to collect from the person who made the error in order to effect settlement with the rightful owner.

Section 1110 of the Postal Laws and Regulations reads as follows:

"After an order has once been paid at a money-order office, by whomsoever presented, the department will not consider any further claim therefor, but in case of wrong payment it will endeavor to recover the amount for the owner, provided such wrong payment did not result from the fault of the remitter, payee, or indorsee."

In order to investigate a claim of wrong payment, the paid order is necessary as evidence to establish the justice of such claim, and in view of the law which provides for destruction of paid orders after the expiration of three years, the department is powerless to decide for or against claims submitted after that period.

Sincerely yours,

W. IRVING GLOVER,
Third Assistant Postmaster General.

GENERAL ACCOUNTING OFFICE,
Washington, January 24, 1925.

Mr. HOMER H. HACKER, *Dallas, Tex.*

SIR: In response to your letter of the 13th instant in further reference to your application for a warrant in lieu of the money order described below, you are advised that this office maintains a record of outstanding and unpaid money orders. The money order for which you desire a warrant to be issued does not appear on that record as outstanding and unpaid. Under such circumstances your application for the warrant was properly rejected. Your inclosures are returned.

J. R. MCCARL, *Comptroller General.*
By R. S. TOWER.

GENERAL ACCOUNTING OFFICE,
Washington, May 15, 1925.

Mr. HOMER H. HACKER, *Dallas, Tex.*

SIR: With reference to your communication dated May 5, you are advised that your application for a warrant in lieu of the money order described below can not properly be allowed by this office for the reason that the record which is kept of all outstanding and unpaid money orders does not show that any money order agreeing with the particulars furnished in your application is thus outstanding and unpaid.

Respectfully,

J. R. MCCARL,
Comptroller General of the United States.
By R. S. TOWER.

POST OFFICE DEPARTMENT,
Washington, D. C., May 28, 1926.

Hon. RICE W. MEANS,
Chairman Committee on Claims,
United States Senate.

MY DEAR SENATOR MEANS: Further reference is made to your communication of the 17th instant, transmitting a copy of bill (S. 3462) for the relief of Homer H. Hacker, with request for an opinion as to the merits of his claim for reimbursement for loss sustained by him as remitter of mony order No. 487, issued on July 21, 1919, at Kenilworth rural station, Biltmore, N. C.

It appears that Mr. Hacker mailed the money order in question to his mother at the time of purchase, but that on or about the 1st of May, 1925, he learned that his mother never received it. He therefore applied for reimbursement by the issue of a Post Office Department settlement warrant in lieu of the invalid order, but his application was rejected by the Comptroller General for the reason that although neither the issuing nor the paying office could find any evidence of payment, the records of the General Accounting Office, Post Office Department Division, failed to show the order as outstanding and unpaid.

Under these conditions, since in accordance with the law all the records more than three years old, except the list of unpaid orders have been destroyed, it must be presumed that the order was regularly paid within the period of its validity which is one year from the last day of the month of issue. This department feels therefore that the case is not a meritorious one and can not consistently recommend that the bill be enacted into law. The Director, Bureau of the Budget, has advised that the report herein made in this case will not conflict with the financial program of the President.

Sincerely yours,

HARRY S. NEW, *Postmaster General.*

○