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GENERAL COUNSEL'S OPINION NUMBER 53-2, DATED 12 JANUARY 1953

Expenses resulting from the cancellation of travel orders are personal and not reimbursable under special Agency authority.

TO DD/P-ADMIN (CHIEF)

1. A memorandum to DD/A from Chief, NEA, dated 12 January 1953, relates to a claim by R.W. for payment for 25 days per diem for the period between 17 October and 12 November 1952, and cost of storage of household effects during that period. It has been requested that payment of the claim be approved as an "extraordinary expense" under the authority of [redacted] of the Confidential Funds Regulations.

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2. The situation may be summarized with the statement that W.'s travel orders were approved for PCS from Washington to B-; that he apparently was given to believe the details of his cover situation were more firm than they actually were; that he acted on the assumption they were firm in moving from his apartment and turning over his household effects to the storage company for shipping, and that subsequently his travel was cancelled.

3. The cancellation of travel is not a situation peculiar to CIA, but rather may occur anywhere in the government structure and constitutes a normal risk of government service, be it CIA or any other agency. Without dwelling on the law it is well established that expenses incurred by a government employee as a result of the cancellation of travel orders are personal ones and may not be the subject of reimbursement by the Government. While it is true a degree of hardship is involved in this case, it is the same hardship that faces other government employees, including Mr. W.'s fellow CIA employees. Accordingly a claim for expenses resulting from cancellation of travel would necessarily have been denied had Mr. W. been connected with any other branch of the Government. It has been the consistent position of this office in line with a decision of the Comptroller General (31 Comp. Gen. 191) that the use of CIA's unusual authority is not contemplated as a means of disregarding ". . . any control with respect to the normal administrative or operating problems which confront the ordinary Government agency." Hence payment of the claim would be an improper use of the authority contained in [redacted] of the CFR's, in the absence of circumstances peculiar to the Agency. This position has been concurred in by the Acting DD/A in Agency [redacted] which states in part:

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"This Agency was granted unvouchered funds authority solely to meet those conditions which are created by the peculiar nature of CIA's functions and activities. It was not granted to be used to relieve ourselves of administrative problems which are common to Government generally and are not affected by factors unique to CIA."

4. Although it may be stated that in this situation operational and cover considerations were involved, this indeed may be said to be true to a greater or lesser degree in nearly any situation involving an Agency project, and the mere presence in the picture of cover or operational considerations is not necessarily the determinative factor. The basic fact is that whatever the reason, the travel was cancelled or postponed which is not a situation peculiar to CIA.

5. Based on the foregoing it is the opinion of this office that the payment of Mr. W.'s claim would not be a proper exercise of the extraordinary power granted the DD/A under [redacted] of the Confidential Funds Regulations.

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LAWRENCE R. HOUSTON  
General Counsel

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