

Executive for AMM

General Counsel

Guard Service, [REDACTED]

3 September 1948

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1. In considering this case, we make one assumption which is not clearly shown in the record. In the document which we shall call the [REDACTED] which is the temporary appointment of 29 December 1946, the provision for salary states that the [REDACTED] 21 per month would be in accordance with an additional written agreement. We assume that this additional agreement was either a copy of what we shall call the Military Attache's contract of 1 July 1946 or a substantially similar document. In either case, we think the situation is essentially simple.

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2. At the time these guards were taken on by the Military Attache, they all became monthly employees, at least within the concept of the [REDACTED]. The Military Attache's contract specified that the Staffers constituted the Party of the Second Part. A copy of the contract indicates that all three signed and affixed their fingerprints. Therefore, although [REDACTED] was named as Representative and Payee, there was privity of contract between each one and the Government.

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3. We do not believe that the issuance of the temporary appointment by [REDACTED] on 29 December altered the essential relationship, particularly if, as we assume, it incorporated the original payment agreement by reference. Consequently, we agree with the Chief, Budget and Finance that on termination they will be entitled to indemnity from 1 July 1946 to the date of separation, including the thirty days' notice period. We also concur that on termination each guard should be required to sign a release upon payment.

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4. It is our further opinion that each guard was entitled during this full period to fifteen days' leave per year in accordance with [REDACTED] and that this leave could have been administratively increased in accordance with local custom. Since there is no requirement in the law that this leave be carried over and accrued in successive years, again local custom should be followed.

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5. Since we feel that the [redacted] did not change the essential situation, we do not believe that it will be necessary to give thirty days' notice of its cancellation, as suggested by the Chief, Budget and Finance Branch. As the transfer from the NA to [redacted] may technically be considered a cancellation of the NA's contract, we feel that the simplest solution is to re-execute an agreement identical to the NA's contract, obtaining the signatures of all three guards and inform the guards that this new contract superseded the appointment of 29 December and would be considered a continuation of their employment under the original terms agreed upon between the Government and the guards as set forth in the NA's contract. As stated by the Chief, Budget and Finance, [redacted] would be paid on a Standard Form 1034. Since there is continuous service involved, we agree with the Chief, Budget and Finance Branch that there would be no payment for leave or indemnity to be made at the time of execution of the new agreement.

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6. In view of the above, we suggest the following message in place of that proposed by the Chief, Budget and Finance:

"Re [redacted] 20 July letter on guard contract. Execute new agreement identical to agreement of 1 July 1946 as superseding the appointment of 29 December 1946. After execution, make payments on 1034. Letter follows."

LAWRENCE R. HOUSTON

Enclosures

LHR:mht