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Legal

OGC Has Reviewed

9 September 1947

MEMORANDUM FOR ADSO

Subject: Claim of [REDACTED]

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1. The above claim has been referred to this office for consideration of the legality of payment. We are requesting your comments in view of the fact that two members of your office are personally affected. Mr. [REDACTED], an officer of Special Funds Division, OSO, but legally responsible as a certifying officer to the Director, has been presented with an approved voucher in the amount of \$670.70. According to the written record before him, there is no legal basis for the major portion of this payment. If he made payment under these circumstances, he would be personally liable for any portion not supported by the record. Mr. [REDACTED], an officer of PBZ, originated a memorandum of 4 September, which is the turning point of the case as stated in the record. If Mr. [REDACTED] report is accurate, there is no basis whatever for payment of per diem to Mr. [REDACTED] after July 3, 1947.

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2. The facts as presented by the record, are briefly as follows: Mr. [REDACTED] was properly authorized to come to Washington from Stanford University, California, by telegrams from the Chief, Personnel Procurement Section, dated 13 June and 27 July 1947. He arrived in Washington on 29 June and was interviewed and given an introduction course on 30 June and 1 July. On 3 July, Chief, Personnel Division, OSO, recommended that rather than return Mr. [REDACTED] to California, he be allowed to remain in Washington on a per diem basis. On that same day, the Executive Officer, OSO, advised the Personnel Division to send him home to California. FBI now states in its memorandum of 4 September, that Mr. [REDACTED] was told by telephone from the Personnel Division that the request for per diem had been disallowed. Mr. [REDACTED] then telephoned Mr. [REDACTED] and told him he could not remain in Washington at Government expense. This was repeated in a personal interview on either the 3rd or 7th of July. Mr. [REDACTED] states that Mr. [REDACTED] understood he would not get any per diem and that [REDACTED] proposed to stay in Washington at his own expense.

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3. If the facts drawn from the record, and set forth above, are accurate, any payment to Mr. [REDACTED] for time spent in Washington after 3 July, would be a mere gratuity, and consequently illegal, no matter what Government funds would be used. The voucher now presented to Mr. [REDACTED] for certification, provides for 77 days per diem from 22 June to 6 September. This voucher, approved by the appropriate officer, is therefore, in direct contravention of the record. It is our understanding that the voucher was approved in response to oral direction from the Executive for A & K. It is reported to be based on an earlier commitment made by an officer of FBZ in a personal letter to Mr. [REDACTED], which commitment, the Director wishes to honor. We have not had any such commitment brought to our attention, nor are we aware that the individual purported to have made the commitment was authorized to do so. On the information now at hand, it appears that the later official notifications to Mr. [REDACTED] would supersede the alleged commitment.

4. Unless, therefore, evidence not now appearing in the record is produced, which clearly controverts the facts stated by FBZ, the proposed payments from July 4 to September 6, of per diem, are illegal and beyond the authority, even of the Director, to approve. Under the present circumstances, it is our duty to bring our opinion in this matter to the Director's attention.

LAWRENCE R. HOUSTON
General Counsel

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