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DATE: June 15, 2000

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In Re:

[Redacted]

Claimant

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Claims Case No. 00022211

## CLAIMS APPEALS BOARD DECISION

### DIGEST

A member who purchased airline tickets for temporary duty official travel did not purchase the tickets from a travel agency under government contract or other approved facility. Reimbursement of the member is not proper because paragraph U3120 of volume 1 of the Joint Federal Travel Regulations (1 JFTR ¶ U3120) requires that the member purchase tickets from one of the facilities described in 1 JFTR ¶ U3120-A unless under 1 JFTR ¶ U3120-B the order-issuing official authorized or later approved purchase from a non-authorized facility due to unusual circumstances when there was no alternative.

### DECISION

The member appeals a decision by the Defense Finance and Accounting Service (DFAS) to deny his claim for reimbursement for airline tickets he purchased for temporary duty travel (TDY). DFAS denied reimbursement because the member procured his transportation from a source other than those provided in paragraph U3120-A of volume 1 of the Joint Federal Travel Regulations (1 JFTR ¶ U3120-A) and no exception applied. [\(U\)](#) The Claims Appeal Board settles this matter for purposes of administrative convenience.

### Background

The record indicates that the member was ordered to travel from Nellis Air Force Base, Nevada, to Tyndall Air Force Base, Florida, to perform temporary duty (TDY) during the period September 18-25, 1999. The member was authorized to take leave in conjunction with his TDY in North Carolina from September 26, 1999, to October 1, 1999. The member traveled to Tyndall on a government aircraft, but because the member went on leave and did not use the government aircraft to return to his permanent duty station at Nellis, he had to arrange commercial travel for the return trip. The

member's orders<sup>(2)</sup> stated that Item 3 from the *Reverse Statements for TDY Orders* of December 9, 1998, applied. Among other things, Item 3 stated that for traveler's convenience, round trip travel by POC and/or personally procured commercial transportation is authorized. In bold type, Item 3 also stated that: "Personnel authorized to personally procure commercial transportation should report to N & N travel for reservations at 644-5400." Item 3 also specified a round-trip government transportation request cost of \$716. The order-issuing official has not authorized or approved procurement from a non-authorized source on the basis that unusual circumstances existed indicating that the member had no alternative. The member is claiming \$623.08 for travel to his leave point and return to Nellis.

The member states that he was completely unaware of the policy in 1 JFTR ¶ U3120, and had not previously taken leave in conjunction with TDY. The member assures us that if he had been aware of the requirement to use a CTO or other approved source, he would have followed that policy. He states that he is in his first enlistment, and that he had asked his flight chief, a named individual who was a master sergeant, for travel advice. The member states that the flight chief merely advised him that all the member had to do was file his travel voucher to be reimbursed. The member states that he spoke with a number of senior NCOs, and they told him that they were either unaware of the policy in 1 JFTR ¶ U3120, or that they had heard of it only recently. The member said that he called the "SATO" to inquire about air fares, but that he did not use them because he could save money by going directly to the air carrier.<sup>(3)</sup>

### Discussion

For purposes of this claim, we will assume that the member was authorized to procure his own return travel and that he attempted to obtain correct information from his supervisor but was advised erroneously.

For travel claims, we must base our decisions on the law and implementing regulations applicable to the situation at hand--in this case, the relevant portions of the JFTR in effect at the time the member traveled. *See* DOHA Claims Case No. 96123013 (June 2, 1997). *See also* DOHA Claims Case No. 00021415 (June 12, 2000) and DOHA Claims Case No. 99101308 (May 5, 2000), recent decisions involving the same JFTR language in paragraph U3120 that controls the present claim. In the context of this regulation, we have held that the fact that the member was not advised to use an approved facility does not provide a basis for payment, since the government is not liable for the erroneous or negligent actions of its officers, agents, or employees. *See, for example*, the discussion in DOHA Claims Case No. 97041009 (July 30, 1997); DOHA Claims Case No. 97030601 (July 30, 1997); DOHA Claims Case No. 97041006 (August 26, 1997); and DOHA Claims Case No. 97031010 (September 16, 1997), all cited in DOHA Claims Case No. 99101308, *supra*. *See also* DOHA Claims Case No. 98051405 (May 20, 1998); and *Petty Officer John R. Blaylock, USN*, 60 Comp. Gen. 257 (1981).

As we explained in DOHA Claims Case No. 99101308, *supra*, the prohibition against disbursements not authorized by statute or regulation is so fundamental that even if an actual government official had specifically misinformed the member that he did not need to use a facility described in 1 JFTR ¶ U3120-A, the member still would not have had the right to reimbursement. The government is neither bound nor estopped by the erroneous or unauthorized acts of its officers, agents, or employees even though committed in the performance of their official duties, and it is a well-settled rule of law that the government is not bound by the erroneous advice of its officers or employees, when such advice contravenes existing regulations. *See* DOHA Claims Case No. 99092806 (February 4, 2000) citing *Joseph Pradarits*, 56 Comp. Gen. 131 (1976), and *Office of Personnel Management v. Richmond*, 496 U.S. 414 (1990), *reh'g denied* 497 U.S. 1046 (1990).

The service member here did not obtain authorization or approval from the order-issuing official indicating that there were unusual circumstances and that the member had no alternative. Moreover, even if he was advised erroneously by a

supervisor, his orders warned him in bold print to contact N & N Travel to make reservations, the presumed CTO for Nellis at the time of the travel. While the member's price shopping is commendable, we also note that a member must attempt to use the contract CTO as a precondition to reimbursement.

### Conclusion

The member's claim is disallowed.

Signed: Michael D. Hipple

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Michael D. Hipple

Chairman, Claims Appeals Board

Signed: Arthur A. Elkins

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Arthur A. Elkins

Member, Claims Appeals Board

Signed: Jean E. Smallin

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Jean E. Smallin

Member, Claims Appeals Board

1. At the time that the member traveled (JFTR updated through Change 153), 1 JFTR ¶ U3120-A1 provided that in arranging official travel, personnel are required to use a commercial travel office under government contract, an in-house travel office, or a General Services Administration Travel anagement Center. But, under 1 JFTR ¶ U3120-B, the order-issuing official may authorize/approve direct purchase from a non-contract travel agent or common carrier when

unusual circumstances existed and there was no alternative. The exceptions in 1 JFTR ¶ U3120-B were prefaced with the following note: "When a non-contract CTO is used, the member must demonstrate that use of a contract CTO was attempted. The last paragraph of 1 JFTR ¶ U3120-B contains the following payment limitation: "Reimbursement for transportation arranged through authorized/approved use of a non-contract travel agent or common carrier . . . is limited to the amount the member would have paid if the arrangements had been made directly through the carrier(s)."

2. Special Order TTF-215, dated August 30, 1999, were group orders involving the member and other named individuals.

3. We understand SATO, the Scheduled Airline Ticket Office, to mean the CTO. It appears that the CTO was N & N Travel at the time of travel.