

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

[REDACTED]
[REDACTED]

DOCKET NUMBER: 96-00580

COUNSEL: NONE

HEARING DESIRED: NO

DEC 3 1996

APPLICANT REQUESTS THAT:

The excess charges associated with the diversion of his household goods (HHG) shipment from California to Oklahoma be repealed.

APPLICANT CONTENDS THAT:

He was provided erroneous information by SSgt W--- of the Dyess AFB Traffic Management Office (TMO) regarding whether it would cost him to have his HHG shipment diverted.

In support of his appeal, the applicant provided personal statements and other documents associated with the matter under review.

Applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS:

Information extracted from the Personnel Data System (PDS) indicates that the applicant was assigned to the Air Force Reserve on 2 Jun 94 in the grade of captain. He was credited with 4 years, 10 months, and 27 days of active duty service.

The relevant facts pertaining to this application are contained in the letter prepared by the appropriate Air Force office of primary responsibility. Accordingly, there is no need to recite these facts in this Record of Proceedings.

AIR FORCE EVALUATION:

The Joint Personal Property Shipping Office, JPPSO, reviewed this application and recommended denial. JPPSO noted that the

applicant was released from active duty on 1 Jun 94. In conjunction with his release from active duty, he was authorized travel and shipment of HHG from [REDACTED] to [REDACTED], his home of record. The applicant made application for two shipments of personal property. A shipment of unaccompanied baggage (UB) move under Government Bill of Lading (GBL) VP-119, 657 from [REDACTED] to [REDACTED]. The shipment had a net weight of 215 pounds. The applicant also requested a shipment of HHG from [REDACTED] to [REDACTED]. The shipment moved under GBL VP-119,872 with a net weight of 13,364 pounds. The applicant was charged a total of \$969.00 for excess distance in shipping the [REDACTED] to [REDACTED] and the HHG to [REDACTED], [REDACTED] a vice the authorized destination of [REDACTED].

JPPSO noted that after arriving in the United States, the applicant traveled to [REDACTED]. On 1 Jun 94, he visited the Traffic Management Office (TMO) at [REDACTED] and requested the HHG shipment that was en route to [REDACTED] be diverted to [REDACTED]. After being advised by the carrier, Cartwright International Van Lines, that the normal port used for shipments returning from Germany was [REDACTED] transportation personnel at [REDACTED] prepared a certificate for diversion to divert the applicant's shipment when it arrived at the New Orleans, Louisiana water port. When Cartwright International Van Lines received the request to divert the shipment at the port of New Orleans, they advised the TMO at [REDACTED] that the shipment was scheduled to be released to them at the port of Long Beach, California. Thus, a corrected certificate of diversion would be required to move the shipment from California to Oklahoma. [REDACTED] issued a new certificate of diversion to move the shipment from Long Beach to Oklahoma. The shipment arrived in Oklahoma on 2 Aug 94. The applicant did not have a delivery address so the shipment was placed in storage in transit. It remained in storage until 1 Nov 94.

Applicant was advised that there would be excess cost charges involved because the shipment had gone to California and had to be returned to Oklahoma. The TMO at [REDACTED] AFB also advised him that since he was no longer on active duty, the charges would have to be paid prior to delivery of the property. When the applicant protested the debt, the [REDACTED] TMO contacted the Excess Cost Adjudication Function (ECAF) for advice and assistance. ECAF advised Vance that it was against Air Force policy to hold a member's property for ransom after the property had been shipped to its destination. ECAF suggested that they deliver the member's property when requested, and, that the case file be forwarded to ECAF for review. ECAF stated they would review the case, and if it was determined that the debt was valid, ECAF would initiate an out of service debt collection against the applicant through the Defense Finance and Accounting Service-Denver Center (DFAS-DE).

After delivery of the applicant's HHG and payment of invoices, ECAF reviewed the case and determined that the applicant had incurred excess costs for shipment of [REDACTED] to [REDACTED] and HHG to [REDACTED], with subsequent delivery to [REDACTED]. Total excess cost for the two shipments was \$3,640.57 minus the \$969.00 previously paid. He was billed \$2,671.57 in additional excess cost charges. The applicant filed a rebuttal of the charges. He stated that when he visited the TMO at [REDACTED] he was advised the shipment could be diverted at the port of entry and there would be no costs to him. In their reply, ECAF stated that personnel at Dyess AFB had tried to divert the shipment at the port of entry, New Orleans, but the property did not come into the port of New Orleans and was on its way to California when the carrier received the diversion notice. The property arrived in California and was delivered to Oklahoma at the applicant's request. Therefore, he was held responsible for the excess cost.

According to JPPSO, the applicant's HHG and several other shipments were scheduled to move from [REDACTED] to the west coast at the same time. The shipments were placed in large sealand type containers for movement from the port at [REDACTED] to the port at Long Beach. The containers were discharged at the port of Norfolk, Virginia moved by rail (minibridge) to the delivery port at Long Beach. When shipments are moved over land via mini-bridge, they do not clear Customs at the port of discharge and are still considered to be in the possession of the ocean carrier until they arrive at the port of delivery. Thus, once the applicant's HHG shipment departed Germany, there was no opportunity to divert the shipment until it arrived at the port of Long Beach.

In JPPSO's view, no error or injustice occurred in the diversion of the applicant's HHG shipment from [REDACTED] to [REDACTED]. JPPSO indicated that transportation personnel at [REDACTED] AFB tried to divert the shipment at the port of [REDACTED]. However, the applicant's shipment did not go through the [REDACTED] port. SSgt W---, stated that members are advised there may be excess costs involved in diverting a shipment from one location to another location. When a HHG shipment is tendered for a commercial carrier, the Government does not route the shipment or maintain control it. Routing of the shipment is the responsibility of the carrier to have it arrive at the destination by the required delivery date. Since several shipments were scheduled to move from Germany to the west coast, the carrier placed them in large sealand containers for ocean transportation from the port at [REDACTED], to the port at Long Beach. Thus, after the applicant's shipment departed [REDACTED] it could not be diverted until it was released by the ocean carrier at Long Beach. At the applicant's request, the shipment was forwarded from California to Oklahoma. In accordance with paragraph U5340, Joint Federal Travel Regulations (JFTR), the Government's maximum transportation obligation is the cost of one through HHG movement of a member's prescribed weight allowance in one lot from and to authorized places at the lowest overall cost to the Government.

The member must bear all costs of transportation arising from shipment of a distance in excess of that between authorized places or special services requested by the member incident to transportation of the HHG.

A complete copy of the JPPSO evaluation is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Applicant indicated that when he went to [REDACTED] and talked to SSgt W--- he specifically asked him if it would cost him anything to divert the shipment. He was told that it would not, and that, if anything, he should get some money back since it was going a shorter distance. At that time, he had not yet made the decision to go to Tulsa and the information he received from SSgt W--- that it would be no problem to divert and would not cost him anything weighed heavily in his decision.

Since he was initially advised of the debt, he has been making frequent calls and has written a letter to Denver office trying to correct it. He did not make any payments on the debts because he did not feel he owed anything. Furthermore, he was shocked to get a letter from a collection agency trying to collect the debt, with the addition of a collection fee of \$1000. Since he had been in frequent contact, he does not believe the debt should have been turned over to the agency, or he should have advised of this. At the very least, he believes the \$1000 collection fee should be waived, and that there should be a split of the excess shipping cost.

Applicant's complete response is at Exhibit D.

In a subsequent response, the applicant indicated he has provided documentation which supports his contention that his HHG shipment could have been diverted had the [REDACTED] TMO had done what it was supposed to do.

Applicant's complete response and additional documentary evidence is at Exhibit E.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. The applicant's complete submission was thoroughly reviewed, and his

contentions were duly noted. However, we do not find the applicant's assertions or his supporting documentation sufficiently persuasive to override the rationale provided by the Air Force office of primary responsibility (OPR). Therefore, in the absence of sufficient evidence to the contrary, we agree with the recommendation of the OPR and adopt their rationale as the basis for our decision that the applicant has failed to sustain his burden of establishing that he has suffered either an error or an injustice. Accordingly, we find no compelling basis to recommend granting the relief sought in this application.

THE BOARD DETERMINES THAT:

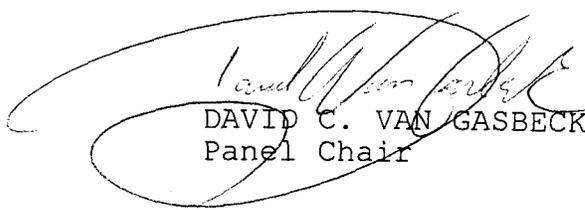
The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on 20 Oct 98, under the provisions of AFI 36-2603:

Mr. David C. Van Gasbeck, Panel Chair
Mr. Richard A. Peterson, Member
Mr. Jackson A. Hauslein, Member

The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 20 Feb 96, w/atchs.
Exhibit B. Letter, JPPSO, dated 6 Jun 96.
Exhibit C. Letter, SAF/MIBR, dated 1 Jul 96.
Exhibit D. Letter, applicant, dated 18 Jul 96.
Exhibit E. Letter, applicant, dated 18 Nov 97, w/atch.



DAVID C. VAN GASBECK
Panel Chair



DEPARTMENT OF THE AIR FORCE
JOINT PERSONAL PROPERTY SHIPPING OFFICE - SAN ANTONIO (DOD)
613 NORTHWEST LOOP 410, SUITE 400
SAN ANTONIO TX 78216-5518

6 JUN 1996

MEMORANDUM FOR AFBCMR
1535 COMMAND DRIVE
EE WING 3RD FLOOR
ANDREWS AFB MD 20762-7002

FROM: CC

SUBJECT: Application for Correction of Military Records [REDACTED]

1. This Air Staff Advisory is submitted in reference to subject application (Encl 1).

2. Background:

a. The Air Force is governed in matters pertaining to the shipment of household goods (HHG) for its military members by Volume I, Joint Federal Travel Regulations (JFTR), which is promulgated from Title 37, U. S. Code.

b. Pursuant to Special Order AB-0774 dated 28 March 1994, as amended by order AB-1009 dated 23 May 1994, [REDACTED] was released from active duty effective 1 June 1994. In conjunction with his release from active duty, [REDACTED] was authorized travel and shipment of HHG from [REDACTED] to his home of record, [REDACTED]. He made application for two shipments of personal property. A shipment of unaccompanied baggage (UB) moved under Government Bill of Lading (GBL) [REDACTED] from Spangdahlem AB GE to Ardmore, Oklahoma. The shipment had a net weight of 215 pounds [REDACTED] also requested a shipment of HHG from Spangdahlem AB GE to Loma Linda, California. The shipment moved under GBL VP-119,872 with a net weight of 13,364 pounds [REDACTED] was charged a total of \$969.00 for excess distance in shipping the UB to Ardmore OK and the HHG to Loma Linda CA vice the authorized destination of Abilene TX [REDACTED]

c. After arriving in the US, [REDACTED] traveled to Tulsa OK. On 1 June 1994, he visited the Traffic Management Office (TMO) at Dyess AFB TX and requested the HHG shipment that was en route to Loma Linda CA be diverted to Tulsa OK. After being advised by the carrier, Cartwright International Van Lines, that the normal port used for shipments returning from Germany was New Orleans LA, transportation personnel at Dyess AFB TX prepared a certificate for diversion to divert [REDACTED] shipment when it arrived at the New Orleans LA water port [REDACTED]

d. In Germany, [REDACTED] HHG shipment and several other member's shipments were placed in large lift van containers for transporting to the water port at Long Beach CA [REDACTED] When Cartwright International

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Van Lines' received the request to divert the shipment at the port of New Orleans, they advised the TMO at Dyess AFB TX that the shipment was scheduled to be released to them at the port of Long Beach CA. Thus, a corrected certificate of diversion would be required to move the shipment from California to Oklahoma [REDACTED]. Dyess AFB issued a new certificate of diversion to move the shipment from Long Beach CA to Oklahoma [REDACTED]. The shipment arrived in Oklahoma on 2 August 1994. [REDACTED] did not have a delivery address so the shipment was placed in storage in transit (SIT). It remained in storage until 1 November 1994 [REDACTED].

e. [REDACTED] was advised there would be excess cost charges involved because the shipment had gone to California and had to be returned to Oklahoma. The TMO at [REDACTED] also advised him that since he was no longer on active duty, the charges would have to be paid prior to delivery of the property. When [REDACTED] protested the debt, the Vance TMO contacted the Excess Cost Adjudication Function (ECAF) for advice and assistance. ECAF advised Vance that it was against Air Force policy to hold a member's property for ransom after the property had been shipped to destination. ECAF suggested they deliver the member's property when requested and for the case file to be forwarded to ECAF for review. ECAF stated they would review the case, and if it was determined that the debt was valid, ECAF would initiate an out of Service debt collection against the member through the Defense Finance and Accounting Service-Denve'r Center (DFAS-DE).

f. After delivery of [REDACTED] HHG and payment of invoices, ECAF reviewed the case and determined that [REDACTED] had incurred excess costs for shipment of UB to Ardmore OK and HHG to Loma Linda CA with subsequent delivery to Oklahoma. Total excess cost for the two shipments was \$3,640.57 minus the \$969.00 previously paid. He was billed \$2,671.57 in additional excess cost charges [REDACTED].

g. [REDACTED] filed a rebuttal of the charges. He stated that when he visited the TMO at Dyess AFB TX, he was advised the shipment could be diverted at the port of entry and there would be no costs to him [REDACTED]. In their reply, ECAF stated that personnel at Dyess AFB TX had tried to divert the shipment at the port of entry, New Orleans, but the property did not come into the port of New Orleans and was on its way to California when the carrier received the diversion notice. The property arrived in California and was long delivered to Oklahoma at the member's request; therefore, he must be held responsible for the excess cost [REDACTED].

3. [REDACTED] is requesting the excess charges associated with the diversion of his HHG shipment from California to Oklahoma be repealed based on gross error and misinformation.

4. When [REDACTED] separated from active duty, he was assigned to Spangdahlem AB Germany. He was authorized travel and shipment of HHG from Germany to his home of record, Abilene, Texas. He made two shipments of personal property from Germany. He requested shipment of his UB to Ardmore OK and shipment of his HHG to Loma Linda CA. After arriving in the CONUS, [REDACTED] decided to

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reside in Tulsa OK. He visited to transportation office at Dyess AFB TX and requested that his HHG shipment be diverted from California to Oklahoma. Transportation personnel at Dyess checked with the carrier to determine which water port they used on shipments from Germany. They were advised that the normal port of entry was New Orleans LA. A diversion certificate was prepared and sent to the home office of the carrier to divert the shipment to Oklahoma when it arrived at the port of New Orleans.

5. ██████████ HHG and several other shipments of DOD sponsored HHG shipments were scheduled to move from Germany to the west coast at the same time. The shipments were placed in large sealand type containers for movement from the port at Bremerhaven, Germany, to the port at Long Beach CA. The containers were discharged at the port of Norfolk VA and moved by rail (mini-bridge) to the delivery port at Long Beach CA ██████████. When shipments are moved over land via mini-bridge, they do not clear Customs at the port of discharge and are still considered to be in the possession of the ocean carrier until they arrive at the port of delivery. Thus, once ██████████ HHG shipment departed Germany, there was no opportunity to divert the shipment until it arrived at the port of Long Beach CA.

6. In view of the above, recommend denial of the member's request to expunge the indebtedness associated with the diversion of his HHG from California to Oklahoma. ██████████ was authorized to ship his HHG from Germany to Abilene TX. At his request, the HHG were shipped to Loma Linda CA. He states that while in Germany, he accepted a medical residency program in Loma Linda CA and shipped the HHG there because he was fairly confident he would be working in Loma Linda. However, after returning to the CONUS and visiting with family and friends in Oklahoma, he decided to enter a residency program in Tulsa OK.

7. No error or injustice occurred in the diversion of ██████████ HHG shipment from ██████████ to ██████████. Transportation personnel at Dyess AFB tried to divert the shipment at the port of ██████████. However, ██████████ shipment did not go through the New Orleans port. ██████████ states that members are advised that there may be excess costs involved in diverting a shipment from one location to another location. When a HHG shipment is tended to a commercial carrier, the Government does not route the shipment or maintain control over it. Routing of the shipment is the responsibility of the carrier to have it arrive at destination by the required delivery date. Since several shipments were scheduled to move from Germany to the west coast, the carrier placed them in large Sealand containers for ocean transportation from the port at Bremerhaven Germany to the port at Long Beach CA. Thus, after ██████████ shipment departed Germany, it could not be diverted until it was released by the ocean carrier at Long Beach CA. At ██████████ request, the shipment was forwarded from California to Oklahoma. In accordance with paragraph ██████████ JFTR, the Government's maximum transportation obligation is the cost of one through HHG movement of a member's prescribed weight allowance in one lot from and to authorized places at the lowest overall cost to the Government. The member must bear all costs of transportation arising from shipment of a distance in excess of that between authorized places or special services requested by the member incident to transportation of the HHG.

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8. Should the Board decide to grant the relief sought, the records may be changed to state that the member's maximum household goods shipping entitlements under Special Order [REDACTED] dated 28 Mar 94 as amended by [REDACTED] dated 23 May 94 was \$15,706.28.

9. My point of contact is [REDACTED]. If there are any questions regarding this matter, he may be reached at DSN 954-4227.

SIGNED

DAVID F. POSTELL, Colonel, USAF
Commander

[REDACTED]

[REDACTED]

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