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Payment of claims and judgments under Pub. L. No. 94-303

Our advice has been requested on whether certain claims and judgments may be paid pursuant to Pub. L. No. 94-303 despite an apparent typographical error in the appropriation language.

The enrolled version of the Second Supplemental Appropriations Act, 1976, H.R. 13172, 94th Cong., approved June 1, 1976 (Pub. L. No. 94-303), contains an appropriation (title I, chapter XII) for the payment of claims and judgments "as set forth in Senate Documents Numbered 94-163 and 94-180 and House Document Numbered 395, Ninety-fourth Congress \* \* \*" (Under-scoring supplied.)

It is clear that the underscored reference should be to S. Doc. No. 94-164 rather than S. Doc. No. 94-163. The former document (No. 164) is a communication from the President transmitting a proposed supplemental appropriation of \$12,282,519 to pay certain claims, judgments, awards, and compromise settlements described therein. The latter document (No. 163) proposes supplemental appropriations for international development assistance. Moreover, the Senate Appropriations Committee report on H.R. 13172 identifies S. Doc. No. 164, rather than No. 163, as a reference for the claims and judgments appropriation. S. Rep. No. 94-802, 152 (1976).

In our opinion, the manifest congressional intent underlying this claims and judgments appropriation--to pay the items specified, inter alia, in S. Doc. No. 94-164--is controlling over the typographical error contained in the statutory language. Accordingly, the items so specified may be paid pursuant to Pub. L. No. 94-303 in its present form. There is ample authority for this approach. Ronson Patents Corp. v. Sparklets Devices, Inc., 102 F. Supp. 123 (E.D. Mo., 1951), concerned a similar situation involving a Federal statute which, by typographical error, misstated the reissue date of a patent. The court gave effect to the clear legislative intent, observing, id. at 124:

"We understand the law to be, if the error in a legislative act is apparent on the face of the act and can be corrected by other language of the act, it is not fatal. The rule is stated in 59 C.J. 991: 'Here verbal inaccuracies, or

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errors in statutes in the use of words, numbers, grammar, punctuation, or spelling, will be corrected by the court, whenever necessary to carry out the intention of the legislature as gathered from the entire act. If the legislative intent is clear, it must be given effect regardless of inaccuracies of language. \* \* \*

See also Fleming v. Salem Box Co., 38 F. Supp. 997 (D. Oregon, 1940), where the court relied upon the legislative history to clarify a typographical error in a statute.

The present situation may not be precisely the same as those considered in the cited court decisions. One considers that the error or ambiguity here is not in a specific sense evidenced on the face of the statute alone. However, since it does become evident when the statutory language is compared with the ~~other~~ documents expressly incorporated therein, we have no doubt that the principle expressed in the court cases applies equally here.

Finally, we understand that the Appropriations Committee staffs have informally confirmed that the erroneous reference in the appropriation language should be to S. Doc. No. 94-164.