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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Gary L. Fryman
File: B-252195
Date: July 26, 1993

DIGEST

The Army may reimburse an employee whose credit card account was used in lieu of a cash deposit to assure room availability for an agency-sponsored dinner for foreign dignitaries. When the dinner reservations had to be canceled at the last moment, the restaurant assessed a cancellation charge against the employee's account. Since the agency was liable for the forfeiture, the employee may be reimbursed from agency funds.

DECISION

This decision is in response to correspondence from Mr. Gary L. Fryman appealing our Claims Group's Settlement Z-2868007, Sept. 29, 1992, which disallowed reimbursement of a fee charged him by a restaurant as the result of a cancellation of an agency-sponsored dinner. We conclude that he may be reimbursed for the following reasons.

Mr. Fryman's employing agency, Headquarters, U.S. Army Aviation Systems Command (AVSCOM), sponsored a dinner to entertain visiting dignitaries of the United Arab Emirates (UAE) who were attending an APACHE Definitization Conference at AVSCOM. Use of Secretary of the Army Contingency Funds was approved in advance to cover the expenses of dinners for the 12 UAE attendees.

The employee who was responsible for making the dinner reservations executed a catering agreement which called for a room deposit and loss of that deposit if the dinner was canceled. Although Mr. Fryman was not in the chain of responsibility for arranging the dinner reservation, he permitted his government Diner's Club card number to be used in lieu of a cash deposit so that room availability would be assured. As a result, when the dinner reservation had to be canceled on the afternoon of the scheduled event because the UAE delegation decided not to attend, a cancellation fee of

\$192 was charged to his Diner's Club account by the restaurant.

The dinner reservation and the use of contingency funds were officially approved in advance. Since the catering agreement was executed by an authorized representative of AVSCOM, it gave rise to a contractual relationship between the government and the restaurant subject to the terms of that agreement. The contract called for a room deposit and in the event of untimely cancellation, that deposit was to have been forfeited. The fact that Mr. Fryman's credit card was used as the instrument which satisfied the deposit condition in lieu of a cash deposit would not serve to relieve AVSCOM from its responsibility under the catering agreement.

Thus, when the dinner reservations had to be canceled at the last moment, the agency became liable to pay the forfeited deposit. See 41 Comp. Gen. 780 (1962); 51 Comp. Gen. 453 (1972). Since Mr. Fryman actually had to pay the forfeited deposit through the \$192 charge against his Diner's Club account, the agency may reimburse him from the contingency fund if the charge assessed against him is consistent with the terms of the catering agreement. See B-242412, July 22, 1991.



Seymour E. Hinchman



James F. Hinchman
General Counsel