

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-210412

**DATE:** April 11, 1984

**MATTER OF:** Claim Against Government--Electronic Transfer of Reoccurring Federal Payments--Bank Liability

**DIGEST:**

1. Upon the death of recipients of electronically transferred Government civil service retirement payments, bank becomes accountable for all subsequent deposits into account unless it satisfies Treasury regulations limiting liability to payments received within 45 days of death. Bank failed to satisfy regulations when it did not provide Treasury with names and addresses of withdrawers from the deceased's account within the times specified in the regulations.
2. Even if claimant was confused by form provided by Department of Treasury, it had legal notice of regulation since publication of regulations in accordance with Administrative Procedure Act provides such notice.

This is a claim against the United States for \$16,433.34 presented by an attorney on behalf of the Jefferson Bank & Trust of Lakewood, Colorado (Bank). The Bank asks that the Government return to it \$16,433.34 that was debited to its account with the Federal Reserve Bank at the request of the Department of Treasury (Treasury).<sup>1/</sup> The Treasury found the Bank liable for reoccurring Government payments into an electronic funds transfer account at the Bank after the death of the individual recipient of the payments. The Bank believes that it complied with Treasury regulations that would have limited its liability to payments made within 45 days of the recipient's death. For the reasons given below, we agree with the Treasury position and deny the Bank's claim.

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<sup>1/</sup> The Bank and the Treasury disagree as to the amount properly debited. Treasury debited \$18,656.68 after deducting the Bank's \$1,612.92 check. The Bank's claim of \$16,433.34 appears to result from deducting the \$1,612.92 check from \$18,656.68 again. We have used the Treasury figures in this decision.

Facts

Until August 1981 under a direct deposit electronic transfer program, Paul A. Walter's civil service annuity payments were deposited monthly in claimant Bank. Mr. Walter died in September 1979. The Bank first became aware of the death in December 1981, when it received a copy of Mr. Walter's death certificate issued in mid-August 1981. (No explanation was provided for the long delay between the date of death and the issuance of the certificate.) Between the time of Mr. Walter's death and the date of notification to the Bank, the Bank allowed a number of withdrawals from the account. Under the agreement the Bank entered into when it accepted the direct deposit arrangement, the Bank is required to return to the Government erroneous payments made to a depositor no longer entitled to receive them subject to certain specified limitations set forth in 31 C.F.R. Part 210.

In accordance with the regulations governing the Direct Deposit Electronic Deposit Program, on April 1 and 2, 1982, the Treasury Department sent first notices of accountability to the Bank. See C.F.R. § 210.10(a). The Bank filed the form required by the Treasury (Treasury Fiscal Form 133 (TFS 133)), indicating that there were no remaining funds in the account. On April 21, 1982, Treasury returned the notice of accountability to the Bank, stating that the Bank had not provided the names and addresses of the withdrawers from Mr. Walter's account, as required by its regulations. Treasury provided another follow-up notice on May 11 (see 31 C.F.R. § 210.10(c)(1)), and on June 1, sent the Bank a "second notice" or request for refund (see 31 C.F.R. § 210.10(c)(2)). Treasury regulations provide that the second notice must be responded to within 30 days of the second notice or the Bank's account is to be debited on the Federal Reserve Bank's books. 31 C.F.R. § 210.10 (c). On July 8, 37 days after the second notice, the Bank provided a completed TFS 133 to Treasury that included the missing information, along with a check for \$1,612.92 covering deposits during the first 45 days after Mr. Walter's death. On August 4, 1982, however, the Treasury requested the Federal Reserve to debit the Bank's account in the amount of \$18,656.68, the balance of the unrecovered withdrawals after deducting the \$1,612.92 check.

Analysis

The Bank's basic disagreement with Treasury is whether its failure to provide Treasury with the names and addresses of the withdrawers from Mr. Walter's account until July 8, 1982, made it ineligible for the limited liability provided for in

Treasury regulations. According to Treasury regulations, Banks can limit their liability to credit payments received within 45 days of its depositor's death, if they have no knowledge of the death when withdrawals are made from an account covered by the electronic deposit program and if they make "every practicable administrative effort to recover the amount which is not available in the recipient's account \* \* \*" 31 C.F.R. § 210.9(a).

According to the Bank, it complied with Treasury's regulations by completing TFS 133 and returning it to the Treasury in response to the April 21 follow-up letter. The Bank's attorney points out that the Form TFS 133 contains no blanks calling for the names and addresses of persons withdrawing amounts from the account and concludes, therefore, it should not be penalized for failing to provide the information in timely fashion.

Treasury disagrees. Essentially, it argues, the Bank did not give the names and addresses of the withdrawers from the deceased's account until July 8, 1982, well after the deadline contained in the regulations for submission of the information. Even though the Form TFS 133 does not specifically identify a blank for this information, Treasury regulations make it clear that submission of the names and addresses of the withdrawers is part of the "administrative effort" to recover the funds withdrawn after death. As the regulations explain, the information received from the financial organization is used by the program agency to attempt to collect the withdrawals. 31 C.F.R. § 210.10(b). Accordingly, Treasury takes the position that the Bank's failure to provide this information in a timely fashion means that the Bank did not make "every practicable administrative effort to recover the amount which is not available in the recipient's account \* \* \*" 31 C.F.R. § 210.a(a)(3). Further, the regulations establish a timetable for providing names and addresses, which under Treasury's interpretation of its regulations leaves no authority for Treasury to waive or disregard these deadlines. 31 C.F.R. § 210.10(c).

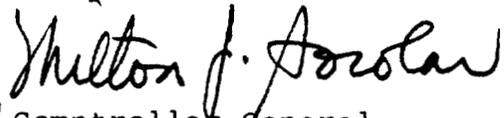
We give great weight to an agency's interpretation of its own regulations when we find, as we do in this case, that Treasury's interpretation of its regulations is reasonable. Timeliness is certainly an important factor in debt collection efforts and we think that the regulations, with their detailed specification of time periods for notices and follow-up requests, establish clearly the importance of banks responding to the requirements for information such as the names and addresses of withdrawers within the time given for response.

Regardless of the wording of the form, the regulations themselves left little doubt of what information was required. These regulations were published in the Federal Register

(40 Fed. Reg. 47492, October 9, (1975)), and thus the Bank had legal notice of their requirements under the Administrative Procedure Act. 5 U.S.C. § 552 (1982). The regulations specifically require the names and addresses of withdrawers and explain how the Treasury will use this information. 31 C.F.R. § 210.10(a)-(b). In addition, the entire sequence of notices and forms sent to the Bank provided it with actual notice as to what information was required. In fact, the very first follow-up notice by Treasury removes all doubt about sufficient actual notice. That form letter returned to the bank the TFS 133 for correction, with the following box checked:

"You have not provided the names  
and addresses of withdrawers."

In summary, the Bank failed to satisfy the Treasury regulations that would have limited its liability. Treasury, therefore, properly asked the Federal Reserve to debit the Bank's account for the amount of the deposits not already returned. Accordingly, the Bank's claim is denied.

*for*   
Comptroller General  
of the United States