

**DECISION**

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

FILE: B-182357

DATE: DEC 9 1975

MATTER OF: Claim of Karl Pusch

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**DIGEST:** Navy civilian employee may be reimbursed for visits to night clubs, bars and restaurants in connection with an informational program for foreign naval officer trainees under provisions of DOD Directive 5410.17, January 15, 1965, since pursuant to authorizing statute funds could have been directly provided to trainees to be spent as they desired and implementing regulations did not clearly limit employee's discretion regarding such visits.

By letter dated October 3, 1974 (ref. NCF-123 7420/1), the Commander, Navy Accounting and Finance Center, requested our decision regarding the claim of Karl Pusch, a civilian employee of the Navy Department, for reimbursement of extraordinary expenses incurred as escort officer in operating an informational program conducted for a group of senior foreign naval officers being trained in the United States.

The employee received \$1,922.93 from the Department of the Navy on June 21, 1973, Voucher No. T6805, in reimbursement for extraordinary expenses incurred as escort officer in connection with an informational program for 12 senior foreign naval officer trainees conducted in Boston, Massachusetts and Washington, D.C. The Navy Regional Finance Center, Norfolk, Virginia, took exception, Note No. 2105-73, to \$639.39 of the claimed expenses representing visits to restaurants, night clubs, and bars, stating that these are not considered reimbursable items in accordance with the regulations involved. Subsequently, an expenditure of \$115 for an official luncheon was determined by the Chief of Naval Operations to be reimbursable, leaving an exception to \$524.39.

Informational programs for foreign military trainees and visitors to the United States are established by Department of Defense Directive

Number 5410.17, January 15, 1965, as a part of military assistance activities authorized by the Foreign Assistance Act of 1961, as amended by subsequent Foreign Assistance Acts, 22 U.S.C. §§ 2151 et seq. (1970). Office of the Chief of Naval Operations Instruction 4950.1E (OPNAVINST 4950.1E), June 26, 1969, implements and substantially restates DOD Directive Number 5410.17 for the Department of the Navy. OPNAVINST 4950.1E, Chapter VI, Part A, Paragraph 1, states in part that:

"\* \* \* It is the policy of the Department of the Navy to promote among foreign trainees and visitors, in addition to their military training or orientation in the United States, an active appreciation of American values and ideals, strong confidence of American power and purpose and an understanding of the role of the armed forces in a democratic society. Steps undertaken to give foreign trainees this perspective on America are intended to complement and strengthen the strictly military aspects of their experience while in the United States. \* \* \*"

Paragraph 15h of this regulation states in part that:

"\* \* \* Social activities in direct support of the Informational Program, and which are conducted on an austere basis, are authorized.\* \* \*"

Suggested topics for informational programs are listed in OPNAVINST 4950.1E, Appendix 4, paragraph B:

"1. U.S. Government Institutions: local, state, and national governments; relationships between them; principle of checks and balances and its effect upon executive initiative.

"2. The Judicial System: the Federal and State judicial systems and doctrine of judicial review; constitutional and legal status of the Armed Forces, with emphasis on their non-political character.

"3. Political Parties: American political parties and electoral procedures; the role of the opposition in a two-party system.

"4. Press: role of free press and other communications media.

"5. The Diversity of American Life: the geographic, ethnic, religious and social diversity of American life; how recent technological changes and urbanization processes are affecting this historic trait.

"6. Minorities: minority groups in the United States, with reference to recent progress in applying American ideals to the Negro and the current steps underway to improve his opportunities.

"7. Agriculture: the factors underlying agricultural productiveness; the changing life and role of the farmer today.

"8. Economy: the national economy, diversity of industrial and business enterprises; role of government; role of private and commercial credit.

"9. Labor and Labor-Management Relations.

"10. Education: purpose and range of secondary and higher educational institutions; relationship between education and a responsible citizenry.

"11. Public and Social Welfare: the care of the indigent, particularly the sick and aged; assistance to the underprivileged; unemployment benefits; the Social Security system."

Appendix 4 also lists and discusses in paragraph C numerous appropriate field trips, such as visits to schools and colleges, model homes, apartments and publicly supported housing developments, sporting events, and farms.

The employee, in a letter dated July 30, 1973, to the Navy Finance Office, Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, admitted that although he thought them proper when made, the challenged expenses of night club and bar attendance were not within the scope of the program. The employee stated that visits to the Boston Playboy Club on May 9 and 12, and expenses for taking two of the officers to an Italian restaurant, an English pub style restaurant, a Western restaurant and four officers to steak house were justified as introductions to "the American way of life."

Regarding the initial visit to the Boston Playboy Club, the employee stated that:

"\* \* \* I suggested that we all go out together for supper to the Playboy Club. While we were in New York in April, three of the officers had joined the Club, and they had visited other Clubs in Los Angeles, San Francisco, and New Orleans. It is fair to say that the officers were looking forward to my taking them out to the Boston Club. I don't think that it is fair to classify the Playboy Club as an ordinary nightclub. If there were anything that these

officers saw or did that impressed them as something symbolic of the United States, I think their visits to the Playboy Club would rank high on any of their lists as one of the most enjoyable experiences they had during their stay in America."

The employee further stated the second visit was undertaken because: "we were not given movie, show, sports, or concert schedules, and we had to dig up our own entertainment."

In considering this claim, the Chief of Naval Operations, promulgator of OPNAVINST 4950.1E, stated in a letter dated July 31, 1974, to the Navy Accounting and Finance Center that:

"c. While an occasional visit to a nightclub may be representative of the American way of life, and would be considered as an expense properly chargeable \* \* \* it is not considered appropriate nor in the American way of life to make nightclubs and cocktail lounges a predominate function of Informational Program tours \* \* \*. Chapter VI, Paragraph 15h. of OPNAVINST 4950.1E discusses appropriate social activities. \* \* \*"

Funds for the informational program in question are authorized by section 636(g)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. § 2396(g) (1970), which provides for "extraordinary" expenses not to exceed \$300,000, and is intended to allow the provision of "limited spending money for Foreign Military Trainees who come to the United States so that those trainees may acquire a greater exposure to American culture." S. Rep. No. 612, 87th Cong., 1st Sess. 48 (1961). Since the funds may be provided to the trainees to be spent as they desire, the administering activity has a great deal of discretion when directly spending the funds for the trainees. Exposure to "American culture" is a broad subject, and conceivably encompasses representative recreational or entertainment activities. This was recognized by Senator Fong during hearings on foreign assistance appropriations for fiscal year 1972 in commenting on orientation tours for senior foreign military officers:

"\* \* \* I went to Africa. We really worked. When we could, we dropped into the game parks. I presume that was not part of our itinerary, but it helped us get a gretty [sic] good idea of what the country is. I think a trip to Disneyland, if they happen to be visiting some military establishment in California, is not out of the way."

Hearings on Foreign Assistance and Related Programs Appropriations for Fiscal Year 1972 Before the Senate Committee on Appropriations, 92d Cong., 1st Sess. 504 (1971).

The regulations establishing the informational tours authorized by 22 U.S.C. § 2396(g), discussed above, present no guidance whatsoever regarding visits to bars, restaurants or nightclubs for purposes of exposure to American culture (rather than as purely social activities) on representational tours. We note that an itinerary for a prior tour by another escort officer contained in the record, while abstemious in contrast to the tour in question, lists a visit to the New York Playboy Club and a dinner at Jack Dempsey's.

It appears that objections by the agency were originally made to expenses at restaurants because they were thought to be nightclubs or bars. (The restaurants were listed as Gigi's, Robin Hood, Bonato's and Rustlers.) Expenses at restaurants with names more indicative of their nature, such as Beef, Bird and Brew, were not questioned. This would indicate that cognizant Navy officials were themselves uncertain as to the propriety of dining at nightclubs or bars, as opposed to restaurants. As previously discussed, the Chief of Naval Operations believes occasional visits to nightclubs might be authorized. While we are not approving the practice of visiting nightclubs, bars and expensive restaurants on representational tours, the lack of adequate guidance to the escort officer leaves us no alternative but to allow him credit for the expenses incurred.

Accordingly, collection action should not be pursued for amounts paid on Voucher T6805.

R.F. KELLER

Deputy Comptroller General  
of the United States