



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Mary Beth Beckman-Najera

File: B-258930

Date: September 19, 1995

DIGEST

A transferred employee, who used a mobile home as her residence at her old duty station in Arizona, authorized another individual to sell it for her and claimed the commission she paid as a residence sales expense. Under Arizona law, a mobile home which is sold separately from real estate is deemed to be a house trailer or a motor vehicle and an individual who sells such a unit for another is required to be licensed as a used house trailer or motor vehicle dealer. Unless the individual who sold the mobile home was so licensed in the State of Arizona at the time of the sale, the claim may not be allowed.

DECISION

This decision responds to a request from the Forest Service, U.S. Department of Agriculture,¹ concerning whether a transferred employee may be reimbursed a commission paid for selling her mobile home residence by an individual who was not a licensed real estate broker or salesperson.

Ms. Mary Beth Beckman-Najera, an employee of the Forest Service stationed in Bellemont, Arizona, was transferred to Idyllwild, California, and reported for duty there on May 20, 1991. Her residence at her old duty station was a mobile home on leased space in a trailer park. On May 10, 1991, she and her husband signed over title to the mobile home to another individual to sell it for them. The mobile home was sold in August 1991 for \$7,000 and Ms. Beckman-Najera claimed reimbursement for \$710, the amount paid to the individual as commission and expenses. The Forest Service disallowed her claim because Arizona law requires that all real estate brokers or salespersons be licensed and the individual who performed the service for her did not possess a real estate license.

¹Natividad Taitano, AOB, Acting Branch Chief, Pacific Southwest Region, San Francisco, California.

Residence sales expenses incident to a transfer may be reimbursed under 5 U.S.C. § 5724a(a)(4) (1988). The implementing Federal Travel Regulation (FTR) in section 302-6.1(b) thereof,² includes a mobile home as a residence for reimbursement purposes. The term "mobile home" is defined in section 302-1.4(i) of the FTR to mean "any type of house trailer or mobile dwelling constructed for use as a residence and designed to be moved overland, either by self-propulsion or towing."³ Section 302-6.2(a) of the FTR⁴ states that a "broker's fee or real estate commission paid by the employee for services in selling his/her residence is reimbursable. . . ."

We have held that, where the law of the jurisdiction requires that a person must be licensed to sell real estate for another, reimbursement for the fee charged for the sale of residential real property may be allowed only if the person is duly licensed.⁵ While these decisions involve a real estate licensing requirement, the focus of the cases is whether the law of the jurisdiction where a service is performed requires that an individual who performs that service for another be duly licensed.

Under Arizona law, a person who sells real estate on behalf of another for a fee or commission is required to be licensed as a real estate broker or salesperson.⁶ Thus, the Attorney General for the State of Arizona has ruled that a person who sells a house trailer affixed to land as a unit for another is required to possess a real estate license.⁷ Otherwise, Arizona law provides that a person who engages in selling used house trailers on behalf of another for which a fee is charged must be licensed as a used house trailer or motor vehicle dealer.⁸

²41 C.F.R. § 302-6.1(b) (1994).

³41 C.F.R. § 302-1.4(i) (1994).

⁴41 C.F.R. § 302-6.2(a) (1994).

⁵John F. Curley, B-190107, Feb. 8, 1978; Mathew Biondich, B-197893, June 4, 1980.

⁶Ariz. Rev. Stat. Ann. § 32-2122 (1989 - effective April 1, 1990).

⁷Op. Atty. Gen. [Arizona] No. 70-17, cited as a note to Ariz. Rev. Stat. Ann. § 28-1301.

⁸Ariz. Rev. Stat. Ann. § 28-1301 and § 28-1304.

Therefore, if the individual who sold the mobile home apart from the lot for Ms. Beckman-Najera was licensed to sell used house trailers, she may be reimbursed the fee paid.⁹ If not, she may not be reimbursed.

/s/Seymour Efros
for Robert P. Murphy
General Counsel

⁹Under FTR § 302-6.2(a), the amount reimbursed may not be in excess of rates generally charged by brokers in the locality. Also, under FTR § 302-6.2(g)(1), the total amount of reimbursement may not exceed 10 percent of the actual price (\$7,000), or \$700.

CIVILIAN PERSONNEL

Relocation

Residence transaction expenses

Broker fees

Reimbursement