

I-21

March 17, 1972

TO: Director, Office of Personnel and Manpower,  
Agency for International Development  
Washington, D. C.

SUBJECT! Record of Proceedings Number 71-25-AID-F9:  
Findings and Decision of the Board in  
the Case of Grievant

REF: 3 FAM 667.1.b.

[Grievant] submitted a formal grievance On November 10, 1971 against a decision by DSAID/redacted which resulted in a denial of his travel expenses totaling \$141.55 and an assessment of a collection charge of \$18.55. These penalties were invoked by an auditor's exception citing [grievant's] use of redacted Air Lines on June 12, 1971 on the redacted portion of his official home leave and return travel to redacted- Grievant submitted a letter and copies of his travel voucher, airline ticket and government transportation request, and apparently bases his justification for using redacted Air Lines on his reliance on the integrity of an American carrier to properly arrange his official travel according to government regulations.

The Board conducted an investigation of the case. The investigation consisted of examinations of the grievance file, of grievant's administrative file, and the current STATE/AID/OSIA travel regulations; a personal interview with the Travel Operations Officer in AID Travel and Transportation Division; telephone conversations with Pan American World Airways, the Administrative Head of AID Voucher Examination Branch, and the Assistant General Counsel for Management and Administration. The Department of State's Supply and Transportation Division and Financial Services Division were consulted during the investigation to compare state's views on travel questions similar to those presented in the grievance.

The Board learned that, while on home leave in Los Angeles, grievant arranged return flights to redacted at a Northwest Air Lines ticket office. He was booked on redacted Air Lines on the redacted portion of his travel because, the ticket agent told him, there was no guarantee of a northwest flight beyond redacted due to labor problems. Grievant states that at no time did he solicit or suggest that a foreign carrier be used. After his return to redacted, he submitted a travel expense voucher for \$141.55. This voucher was subsequently denied by an auditor's exception citing grievant's

use of redacted Air Lines on the redacted portion of his travel. In addition, he received a bill for collection totaling \$18.55. Grievant; appealad to the Personnel Office in redacted but was told that the office had checked with Northwest Air Lines and confirmed that the airline did have a flight on the day on which grievant traveled on the foreign carrier. Grievant felt that the Personnel Office was remiss in not asking Northwest whether there had been any labor problems that might have influenced the decision by the Los Angeles ticket agent to book hire on redacted Air Lines.

In the course of the investigation it was learned that Northwest Air Lines apparently had labor problems at the time of grievant's travel. However, another American carrier, Pan American, had two daily flights frors redacted. Regulations require a government employee to utilize American carriers between points of travel where there is at least three-times-a-week frequency of service. Grievant did not claim that space was unavailable on the Pan American flights. The Board noted grievant's length of service with AID and the length of time in redacted, and felt he should have been sufficiently aware of a U. S. Government employee's requirement to use American-flag carriers for official travel when possible. He has failed, however, to submit.any valid reasons justifying his use of redacted Air Lines on the redacted portion of his travel.

Upon examination of the auditor's exception shown on grievants travel voucher, the Board notes that the total penalty of \$163.40 is equivalent to the published one-way economy class air fare redacted. The penalty provision, which contained the base for using the point-to-point one-way economy air fare to determine penalty anessments, was eliminated from Section ; 4 of AID Manual Order 560.2 by Manual Transciittal Letter No. 5:368 dated April 29, 1971.

The Board is aware of the Congressional mandate to U. S. Government agencies to use American carriers when possible for all official air travel. However, in the absence of any regulation which designates a penalty and specifies how a penalty assessment is to be determined, the Board questions the Agency's authority to continue the practice of assessing collection charges according to the point-to-point published air fare. A collection charge of this sort is excessive since it results in a greater repayment to the U. S. Soveraraent by an employee than the aiaount the foreign carrier actually received for the transportation provided when figured in long-distance or round-trip travel. Furthermore, it is the Board's understanding that the use of a foreign flag airline in this case did not in any actual way result in any extra expense to the U. S. Government.

apparent, if uncited, basis for the action taken by the Agency is Section 115 of AID Manual Order 5SQ.2, which makes "the traveller responsible for correct performance of official travel and for the payment of any charges incurred through failure to comply with governing regulations, regardless of who may have assisted him in making his travel arrangements..."

In the Board's judgment, grievant did fail to comply with the government regulations prescribed in Section 134. However, there is no evidence that any charges were incurred as a consequence of his actions. Furthermore, the Agency has failed to cite any statutory or regulatory authority for imposing any financial penalty in these circumstances.

Instead of giving the authority for the action taken, the Agency's answer at the final step of the informal grievance procedure simply states that it can "find *no* justification for overruling the Mission on their decision". The Board believes that more serious consideration should have been given this matter during the informal procedure, and that under the circumstances of this case it is appropriate to remand this grievance to the Agency for further consideration in light of the opinion, above. 'The Director, Office of Personnel and Manpower is directed to review this matter within the next 30 days, unless within 30 days he can find express authority for assessing the financial penalty against [grievant], the Agency is directed to reimburse the grievant for the penalty of \$163.40 assessed against him, and to notify this Board of such action- If the Agency concludes that authority does exist for the action taken, the director. Office of Personnel and Manpower, is directed to communicate such decision to the Board. Upon receipt of such communication, the Grievance Board will take such further act as is warranted.

William E. Simkin Chainaan, Foreign  
Service Grievance Board