



DEPARTMENT OF DEFENSE
COMBINED/JOINT TASK FORCE (CJTF-76)
OFFICE OF THE STAFF JUDGE ADVOCATE
BAGRAM AIRFIELD, AFGHANISTAN APO AE 09354

REPLY TO
ATTENTION OF

CJTF-76-JA-CL

MEMORANDUM FOR RECORD

21 July 2006

SUBJECT: Foreign Claim Investigation, Claim # AIU-06-082 ((b)(6))

1. **Identifying Information.**

a. Claimant: The claimant is a local national, (b)(6) (hereinafter "the claimant"), living in Afghanistan.

b. Amount: The claimant filed a claim for 2,500,000 Afghani on 26 June 2006.

c. The claimant states on 29 May 2006, that his son was shot and killed after a riot began after a U.S. Forces HEMMT vehicle lost brake control upon entering the city of Kabul.

d. Investigation Completed: 19 July 2006.

2. **Jurisdiction.** The claimant filed his claim in a timely manner in the form of an SF 95. The claimant is a foreign national. The claimant is a proper claimant under the Foreign Claims Act IAW DA PAM 27-162, para. 10-2.

3. **Statement of Facts.**

a. The claimant states on 29 May 2006, his son was shot and killed after a riot started as a result of a U.S. Forces HEMMT losing brake control.

b. A convoy was enroute from Bagram to Kabul on 29 May 2006. As they began to enter the town of Kabul, there is a very long steep graded slope on which the HEMMT within the convoy began lose control of its brakes. The HEMMT, out of control, entered town and made contact with several vehicles until it finally came to a complete stop. Damage consisted of numerous vehicles, personal injuries, and a one casualty. As the local nationals began to congregate a riot ensued. Shots were fired from the local Afghan national police and U.S. personnel fatally wounding several local nationals.

c. The claimant submitted an SF 95 indicating damages of 2,500,000 Afghani for the loss of his son.

4. **Legal Analysis.**

a. **Legal Rules.** Under AR 27-20, para. 10-3, the incident that forms the basis for the claim must arise in a foreign country and be a result of either noncombat activities of the U.S. armed forces or the negligent or wrongful acts of civilian employees or military members. "Noncombat activity" is defined in the Glossary of AR 27-20, as "authorized activities essentially military in nature, having little parallel in civilian pursuits, which historically have been considered as furnishing the proper basis for payment of claims. Activities excluded are those incident to combat, whether in time of war or not, and use of military personnel and civilian employees in connection with civil disturbances."

b. **Application of Rules.** In this case, the claim arose in Afghanistan, a foreign country. An investigation is being completed between U.S. Forces and the local Afghanistan police. After the incident, U.S. Forces and Afghani law enforcement conducted separate investigations. Evidence supports the negligence of the U.S. Forces and therefore the claimant should be compensated accordingly.

5. **Damages.** The claimant filed an SF 95 on 26 June 2006. The SF 95 requests compensation for the loss of the son.

6. **Proposed Settlement or Action.** This claim is payable under the Foreign Claims Act because the loss occurred as a result of a U.S. government personnel's negligence. This claim should be settled for 350,000 Afghani to compensate the family for their loss.

7. Point of contact is the undersigned at (b)(2)High

(b)(3).(b)(6)

CPT, JA
Foreign Claims Commissioner

Encls.

Standard Form 1034 October 1987 Department of the Treasury	PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL	VOUCHER NO. SCHEDULE NO.				
DEPT, BUREAU, OR ESTABLISHMENT AND LOCATION DEPARTMENT OF THE ARMY DFAS-IN INDIANAPOLIS, IN 46249	DATE VOUCHER PREPARED <p style="text-align: center;">25-Jul-06</p> CONTRACT NUMBER AND DATE REQUISITION NUMBER AND DATE	PAID BY FOBA5 DFAS-IN INDIANAPOLIS, IN 46249 DSSN: 5570 DATE INVOICE RECEIVED <p style="text-align: center;">25-Jul-06</p> DISCOUNT TERMS PAYEE'S ACCT. NUMBER				
PAYEE'S NAME AND ADDRESS <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> (b)(6) BAGRAM, AFGHANISTAN </div>	SHIPPED FROM TO WEIGHT GOVERNMENT B/L NO.	GOVERNMENT B/L NO.				
NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES <small>(Enter description, item no. of contract or Federal supply schedule, and other information deemed necessary)</small>	QUANTITY	UNIT PRICE <small>COST PER</small>	AMOUNT	
		Foreign Claim Commission CASE NO. #: A1U-06-082 Date Request Filed: 25 July 2006 Current Exchange Rate			6,984.63 0 0 0 0 0 0	
CONTINUATION SHEET IF NECESSARY: (Payee must NOT use the space below)					TOTAL	6,984.63
COMMENT: <input type="checkbox"/> PROVISIONAL <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input checked="" type="checkbox"/> FINAL <input type="checkbox"/> PROGRESS <input type="checkbox"/> ADVANCE		Certified by: (b)(3),(b)(6) CPT, JA Foreign Claims Commission		DIFFERENCES Amount verified, correct for (Signature or initials)	\$6,984.63 (b)(3),(b)(6)	
<small>pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.</small>						
25-Jul-06 <small>(Date)</small>		(b)(3),(b)(6) <small>(Authorized Certifying Officer)</small>		DISBURSING OFFICER <small>(Title)</small>		
ACCOUNTING CLASSIFICATION						
2162020 22-0204 P436099.22-4200 VFRE F3203 S99999 APC: K226(83) A1U						
Accounting Classification Verified by: (b)(3),(b)(6), 2LT, FC, Deputy ASB (FWD)						
PAID BY	CHECK NUMBER CASH	ON ACCOUNT OF U.S. TREASURY DATE	CHEC PAYEE	BANK (Name of bank) (b)(3),(b)(6)		
	\$6,984.63	25-Jul-06				
PRIVACY ACT STATEMENT <small>The information requested on this form is required under the provisions of 51 U.S.C. 852b and 852c, for the purpose of the payment obligation. The information requested is to identify the particular creditor and the amounts to be paid. Failure to furnish this information will hinder discharge of the payment obligation.</small>						

Figure 8

FOREIGN CLAIMS COMMISSION DECISION MEMORANDUM

1. CASE No. #: **AIU-06-082** 2. DATE REQUEST FILED: **21 July 2006**
3. NAME AND ADDRESS OF CLAIMANT: (b)(6)
4. NAME AND ADDRESS OF REPRESENTATIVE: **N/A**
5. DATE AND PLACE OF INCIDENT: **29 May 2006, Afghanistan**
6. AMOUNT REQUESTED: **2,500,000 Afghani**
7. EQUIVALENT IN US CURRENCY: **Current Exchange Rate**
8. FACTS: **See investigation memo**
9. LIABILITY: **The request is cognizable and considered meritorious**
10. QUANTUM:
Amount requested: **2,500,000 Afghani**
Amount Approved: **350,000 Afghani**

11. FUND CITE # (b)(2)High **APC:**
 (b)(2)High

12. ACTION: **Claimant paid for substantiated loss**
13. PAYMENT AMOUNT: **350,000 Afghani**
14. EQUIVALENT IN US CURRENCY: **Current exchange rate**
15. COMMISSIONER'S SIGNATURE/DATE:

(b)(3),(b)(6)

CPT, JA
Foreign Claims Commissioner

FILE NUMBER: AIU-06-082	For use of this form, see AR 27-20; the proponent agency is the Office of The Judge Advocate General.	DATE: 2550106
DATE OF INCIDENT: 29 May 06	PLACE OF INCIDENT: Afghanistan	
I hereby agree to accept the sum of 6984.63 in full satisfaction and final settlement of all claims which I have or may have against the United States, its officers, agents, and employees, for all damages and injuries, if any, incurred by me.		
به Foreign Language Tex ت صورت تصفیه حساب نهایی بابت تمام عثانیات و جراحیاتی که از طرف ایالات متحده آمریکا، افسران، مأمورین و کارمندان آن بر من وارد گردیده، بپذیرم.		Dari
(b)(6)	SIGNATURE	(b)(6)
PRESENT ADDRESS OF CLAIMANT (Number and street or Rural route, city, town or post)		
N/A		

DA FORM 1686, 1 JUL 74 PREVIOUS EDITION OF THIS FORM WILL BE USED UNTIL EXHAUSTED CLAIMS SETTLEMENT AGREEMENT USAFFE 01-96

Plus whats
in the box

STATEMENT OF AGENT OFFICER'S ACCOUNT

DISBURSING OFFICER'S NAME, ADDRESS, DISBURSING STATION SYMBOL NO. 2LT (b)(3),(b)(6) FINANCE & ACCOUNTING DEPUTY DISBURSING OFFICER BAGRAM AIR BASE APO AE 09354 DSSN 5570	AGENT OFFICER'S NAME, GRADE, SSN, UNIT ADDRESS (Include ZIP Code/APO number and Telephone number) TSGT (b)(3),(b)(6) (b)(3),(b)(6) OSJA BAGRAM AIR BASE APO AE 09354 BUSINESS DATE: 24-Jul-06 FUND (b)(2)High CLEAR
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TRANSACTIONS AFFECTING AGENT OFFICER'S ACCOUNT

TRANSACTIONS	TOT VOU	INCREASE (Received by Agent) <i>f</i>	BEGINNING BALANCE (In Agent's Account) <i>e</i>	DECREASE (Turned in by Agent) <i>d</i>	ENDING BALANCE (In Agent's Account) <i>e</i>
1. BALANCE FORWARD			\$6,984.63		\$13,969.26
2. U.S. DOLLARS				\$0.00	
3. FOREIGN CURRENCY 350,000 @ 50.11		\$6,984.63		\$0.00	
4. MILITARY PAYMENT CERTIFICATES (1081s)					
5. COLLECTIONS					
6. COLLECTIONS					
7. NEGOTIABLE INSTRUMENTS					
A. TREASURY CHECKS					
B. DEPOSITS					
C. DEPOSITS					
8. PAID VOUCHERS SF 1034/44				\$6,984.63	
9. INCORRECT VOUCHERS RETURNED					
10. FOREIGN CURRENCY					
11. EXCHANGE RATE GAIN/LOSS		\$0.00		\$0.00	
12. TOTAL FUNDS IN HANDS OF AGENT OFFICER			\$13,969.26	\$6,984.63	\$6,984.63

STATEMENTS

DISBURSING OFFICER	AGENT OFFICER
ADVANCE: I HAVE INTRUSTED FUNDS AND/OR (b)(3),(b)(6) ITEMS AS INDICATED IN THIS STATEMENT TO THE NAMED AS MY AGENT OFFICER.	(b)(3),(b)(6) STATEMENT: I, AS AGENT OFFICER, HAVE RECEIVED FUNDS AND/OR OTHER ITEMS AS INDICATED ABOVE. I HAVE ASSUMED PECUNIARY RESPONSIBILITY THEREFORE. I WILL NOTIFY THE DISBURSING OFFICER IMMEDIATELY UPON DISCOVERY OF ANY LOSS OR SHORTAGE, AND I HAVE RECEIVED AND UNDERSTAND WRITTEN INSTRUCTIONS CONCERNING THE FUNDS AND RESPONSIBILITIES AS AN AGENT OFFICER
DATE 24-Jul-06 (b)(3),(b)(6)	DATE 24-Jul-06 (b)(3),(b)(6)

RETURN: I HAVE RECEIVED FUNDS AND/OR OTHER (b)(3),(b)(6) ITEMS INDICATED ON THIS STATEMENT FROM THE ABOVE AGENT OFFICER.	(b)(3),(b)(6) RETURN: THE ABOVE STATEMENT OF ACCOUNT IS CORRECT.
DATE 24-Jul-06 (b)(3),(b)(6)	DATE 24-Jul-06 (b)(3),(b)(6)

DD Form 10

Encl . . .

(b)(6)

CENTCOM 006575

AIU-06-082-00001-00008

CJTF76-SJA - Foreign Claim Investigation, Claim # AIU-06-082 ((b)(6))

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c. The claimant submitted an SF 95 indicating damages of 2,500,000 Afghani for the loss of his son.

4. Legal Analysis.

Attention to the Claims Office:

Dear Sir:

My name is (b)(6) main residency of Shakardara district of Kabul Province. My son by the name (b)(6) he was working as mechanic in Kabul. He killed During the traffic accident on 29 May 2006, while he was going to get the spear parts for His shop, on the way the U.S forces shot him in Saryai Shamali, as a result of shooting he was death. (b)(6)

(b)(6) . Mr. (b)(6) was the only one to support our family. He was the food provider for (b)(6)

(b)(6) I wish to help me regarding the issue.

Sincerely
Father of Mr. (b)(6)

Pages 12 through 13 redacted for the following reasons:

Foreign Language

**Kabul Commanding Office
Police Station 17
Criminal Office
Area Controlling Office**

Question	Date	Responding
<p>Attention To The Shakardara District</p> <p>According to the claimant request (b)(6) Son of ((b)(6)) main residency of (b)(6) current residency of (b)(6) district, He is claiming that his son was killed as result of traffic accident which was took placed at district 17th on 29 May 2006, in order to have the complete information. The elder village and the mosque Chaplin is responsible to write down what happened on Mr. (b)(6) . Based on what information they have.</p> <p style="text-align: center;">Sincerely (b)(6) Chief Police District 17th</p>		<p>Attention To The Police Station 17th</p> <p>Dear Sir:</p> <p>Mr. (b)(6) son of (b)(6) is Main residency of (Qalya Marhad Big) he was killed as result of traffic accident which was took placed at the district 17th on 29 May 2006, and also we want to inform you that our commending office already report to the chief police of Kabul that Mr. (b)(6) was killed during the traffic accident.</p> <p style="text-align: center;">Sincerely (b)(6) Shakardara Chief Police</p> <p>Dear Sir:</p> <p>Mr. (b)(6) son of (b)(6) was killed as result of traffic accident which was happened on 29 May 2006, at district 17th in Kabul.</p> <p style="text-align: center;">Sincerely Mosque Chaplin</p> <p>Dear Sir:</p> <p>I am confirming that Mr. (b)(6) was killed in traffic accident on 29 May 2006, at district 17th in Kabul.</p> <p style="text-align: center;">Sincerely (b)(6) Elder village I</p>

Pages 15 through 16 redacted for the following reasons:

Foreign Language
Foreign Language, (b)(6)

**Kabul Commanding Office
Police Station 17
Criminal Office
Area Controlling Office**

Question	Date	Responding
<p>Attention To The Emergency Hospital</p> <p>According to the claimant request ((b)(6)) Son of ((b)(6)) main residency of (b)(6) current residency of (b)(6) of Kabul province, he is claiming that his son by the name of ((b)(6)) was injured as result of coalition forces traffic accident which was occurred on 29 May 2006, at Kabul in Saryia shamalai. After the accident Mr. ((b)(6)) transferred to the hospital for treatment. Therefore we need to know that at which time and date he was transferred to the hospital, and also what type of injury he had.</p> <p style="text-align: center;">Sincerely (b)(6) Chief Police District 17th</p>		<p>Attention To The Police Station 17th</p> <p>Dear Sir:</p> <p>According to the registrations, Mr. (b)(6) son of (b)(6) was transferred to our hospital while he was shot. On 29 May 2006, because of serious condition which he had. He was death.</p> <p style="text-align: right;">Sincerely Doctor 23/3/85 13 June 06</p>

Page 18 redacted for the following reason:

Foreign Language

(b)(6)

CENTCOM 006586

AIU-06-082-00001-00019