



BOARD OF GOVERNORS  
OF THE  
FEDERAL RESERVE SYSTEM  
WASHINGTON

137

R-897

ADDRESS OFFICIAL CORRESPONDENCE  
TO THE BOARD

October 3, 1941

Dear Sir:

There is enclosed for your information a copy of a decision (B-19319) rendered by the Comptroller General of the United States to the Federal Works Administrator under date of August 9, 1941, to the effect that the owner of an insurance agency not regularly engaged in the business of financing may not be recognized as a "financing institution" within the purview of the Assignment of Claims Act of 1940. This decision refers to an earlier decision by the Comptroller General (20 Comp. Gen. 415) which was enclosed in a letter addressed to you under date of February 15, 1941 (R-784).

Very truly yours,

A handwritten signature in dark ink, appearing to read "L. P. Bethea", is written over a horizontal line.

L. P. Bethea,  
Assistant Secretary.

Enclosure

TO THE PRESIDENTS OF ALL FEDERAL RESERVE BANKS

B-19319

R-897-a

COMPTROLLER GENERAL OF THE UNITED STATES  
Washington

August 9, 1941

The Federal Works Administrator,  
Federal Works Agency.

My dear Mr. Carmody:

I have your letter of July 30, 1941, as follows:

"Fred M. Garrett, of Louisville, Kentucky, has filed Notice of Assignment with the Public Buildings Administration, of this Agency, of all moneys due or to become due under Contract No. WA2pb-1253, dated May 17, 1941, between the Lockwood Company, Inc., of Louisville, Kentucky, and the Public Buildings Administration, for interior painting and miscellaneous repairs to the Versailles, Kentucky, Post Office.

"Upon receipt of the Notice of Assignment, the Public Buildings Administration requested Mr. Garrett to furnish evidence to show that he is a 'financing institution' within the meaning of the term as used in the Assignment of Claims Act of 1940.

"By letter of July 19th, Mr. Garrett addressed the following communication to the Public Buildings Administration, signed (under oath) 'Garrett Insurance Agency, by Fred M. Garrett, Owner':

"I have your letter of January 15th in reference to an assignment to a financing institution and you have requested me to clarify why Fred M. Garrett would qualify as a financial institution.

"Fred M. Garrett is the sole owner of an insurance agency in Louisville and any insurance agency in Louisville that expects to continue in business is forced to be a financing institution by the fact that practically all of the banks, building and loan and other financing institutions are actively engaged in the insurance business and coerce insurance from people borrowing money. This applies to National Banks, State Banks and building and loan associations; and, as a result, Fred M. Garrett, as an individual, extends the time of payment, accepts notes, makes advances to contractors and does other business of the normal financial institutions in order to protect his insurance business. I have already advanced \$1000.00 on this Versailles, Ky., contract.'

"Your decision is requested as to whether Mr. Garrett may be recognized as a 'financing institution' within the purview of the Assignment of Claims Act and payments under the said contract made to him accordingly."

In so far as here pertinent, the Assignment of Claims Act of 1940, 54 Stat. 1029, provides:

"That sections 3477 and 3737 of the Revised Statutes be amended by adding at the end of each such section the following new paragraph:

"The provisions of the preceding paragraph shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating \$1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency: \* \* \*"

Even though it be assumed that an individually owned business may, in a proper case, qualify as a "financing institution" within the meaning of the Assignment of Claims Act of 1940, it would appear that Mr. Garrett's financing activities are only such as are incidental to the carrying on of his business as the owner of an insurance agency; and that he is not regularly engaged in the business of financing, apart from such credit as may be extended by him in connection with his principal business. Compare 20 Comp. Gen. 415. Obviously, a business does not become a "financing institution" merely by reason of the extension of credit to those with whom it deals in the course of its primary business activities.

Accordingly, it does not appear upon the present record that Mr. Garrett may be recognized as a "financing institution" within the purview of the Assignment of Claims Act of 1940.

Respectfully,

(Signed) Lindsay C. Warren  
Comptroller General  
of the United States.