



DEPARTMENT OF THE ARMY
HEADQUARTERS, 3RD BRIGADE COMBAT TEAM
OPERATION IRAQI FREEDOM, COB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZP-VA-HQ

10 April 2006

CP3AAS61000446-2

MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to [REDACTED] **Claim**
Number 06-IR8-332)

1. On 10 January 2006, [REDACTED] alleges that when his cousin was driving his car CF had the road blocked and as he approached they started shooting the vehicle. Several people inside the car were killed and others were injured.
2. I certify that CERP funds are available to pay [REDACTED] in the amount of \$2,500.00. This is a battle damage payment.
3. The request to pay [REDACTED] in the amount of \$2,500.00 from CERP has been legally reviewed. There is no legal objection to this payment and it is accordingly approved.

[REDACTED]
CPT, EN
Project Purchasing Officer

000201



DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
OPERATION IRAQI FREEDOM, COB SPEICHER
TIKRIT, IRAQ APO AE 09393

AFZB-JA-C

1 April 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of [REDACTED] 06-IR8-490

1. Identifying Data: [REDACTED]

2. Date and place the incident occurred giving rise to the claim: The claim occurred on 10 January 2006 in Samarra, Iraq.

3. Amount of claim and date it was filed: Claimant filed a claim for \$15,000 on 25 March 2006.

4. Jurisdiction: This request is presented for consideration under the provisions of the Foreign Claims Act, 10 USC Section 2734, as implemented by Chapter 10, Army Regulation 27-20. This claim was properly filed in a timely manner.

5. Facts: The Claimant alleges that his vehicle, a 1995 GMC Suburban, was destroyed by CF when his cousin was driving the vehicle from Tikrit to Samarra. CF were allegedly blocking the street and started shooting at the vehicle. The vehicle allegedly began to burn and was completely destroyed. Several persons inside the vehicle were killed and injured. A SIGACTS investigation revealed that a CF patrol had blocked traffic while a possible IED was being investigated. Traffic had stopped behind a tractor trailer when a SUV went around the front vehicle and began traveling on the median strip towards the halted patrol. The patrol fired warning/disabling shots, but the vehicle appeared to accelerate. The CF patrol, fearing that the vehicle was a VBIED opened fire. The vehicle quickly became engulfed with fire. The patrol noticed that several women and children were inside the vehicle and tried to exit the vehicle as it burned. The incident is confirmed by CPT Ortega, the CATA-22 team leader.

6. Opinion: "Under AR 27-20, paragraph 10-3, Claims arising "directly or indirectly" from combat activities of the U.S. Armed Forces are not payable. AR 27-20 defines combat activities as, "Activities resulting directly or indirectly from action by the enemy, or by the U.S. Armed Forces engaged in armed conflict, or in immediate preparation for impending armed conflict." Here, the claimant's damage was caused during an escalation of force. This constitutes combat activity because the troops in contact feared the vehicle was a VBIED and were acting in self defense.

7. Recommendation: The claim is denied.



CPT, JA
Claims Judge Advocate

000202

TF Band of Brothers Claims Intake Form

To: United States Army Foreign Claims Commission.

From: Name: [REDACTED]

POA/ATT: *N/A*

Power of Attorney provided and interpreter approved:

Decedents: *N/A*

Hometown:

Iraqi Resident:

My claim arose at:

(Town)

Samarra

(City)

(Country)

My claim arose on:

Month

Day

Year

Jan

10

06

Proof of Ownership: *Needs to bring the original sell Contracting for the vehicle*

VIN Match:

Interpreter Approved:

Death Certificates (Name, Cause of Death, Age, and Time of Death Consistent with Claimant allegations): *N/A*

Interpreter Approved:

Medical Report/Legal Expert Opinion:

the whole vehicle destroy

Interpreter Approved: *yes*

Witness Statement (Consistent?): *w1>(driver on road) saw CF shoot at vehicle while it was driving at highway eye witness*

Interpreter Approved: *yes* *w2> same as above*

Give a brief statement of the accident or incident on which the claim for damages to property or for personal injury is based. (Use back of this sheet if necessary.)

claimant alleges that his cousin was driving his car at the highway near Samarra, CF were bluff the street and they start shoot at the vehicle and the car caught fire. He has a memo from [REDACTED] a in this packet.

Superior GMC 1993

Evidence: *legal EXPERT, photos*

000203

List in detail the amount of property damage and itemized expenses resulting from the property damage or personal injury: (Attach bills and receipts, if applicable.)

Item Amount

The whole vehicle destroy

Total: \$ 13 000

I claim as damages: (Indicate amount in U.S. dollars and local currency)

\$ 13,000.00 local

(Signature of Claimant)

Subscribed before me this 25 day of March, 2006

(Signature)

000204