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CLAIM FOR DAMAGE,	INSTRUCTIONS: Pleas supply information requ	e read carefully th	ne instructions of the form.	n the reverse side an Use additional sheet	fORM APPROVED (s) if OMB NO.
INJURY, OR DEATH	necessary. See reverse	side for additiona	al instructions.		1105-0008
Submit To Appropriate Federal Agency:		12. Name, Addre	ass of claimant a	and claimant's nerson	ai representative, if any.
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8. Basis of Claim (State in detail the known fa	icts and circumstances at	tending the dama	ge, injury, or de	ath, identifying perso	ns and property
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or both. (See 18 U.S.C. 287, 1001.)

The claimant shall forfeit and pay to the United States the sum of \$2,000 plus double the amount of damages sustained by the United

NSN 7540-00-634-4046

States. (See 31 U.S.C. 3729.)

STANDARD FORM 95 (Rev. 7-85) ET

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#### 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-CI

MEMORANDUM FOR RECORD

24 July 2006

SUBJECT: Foreign Claim Investigation, Claim # A1U-06-083



## 1. Identifying Information.

- a. Claimant: The claimant is a local national, described ereinafter "the claimant"), living in Afghanistan.
  - b. Amount: The claimant filed a claim for 2,000,000 Afghani on 26 June 2006.
- c. The claimant states on 29 May 2006, that his cousin 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 Corpoleted: 22 July 2006.
- 2. <u>Jurisdiction</u>. The claimant filed his claim in a timely manner in the form of an SF 95. The claimant is a foreign national and the owner of the property. 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 cousin 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 2,000,000 Afghani for the loss of his cousin.

### 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 cousin.
- 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 200,000 Afghani to compensate the family for their loss.
- 7. Point of contact is the undersigned at (318) 231-4603.



Foreign Claims Commissioner

Encls.

# 83

## FOREIGN CLAIMS COMMISSION DECISION MEMORANDUM

- 1. CASE No. #: A1U-06-083
- 2. DATE REQUEST FILED: 24 July 2006
- 3. NAME AND ADDRESS OF CLAIMANT:

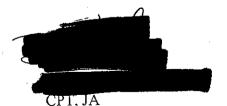


- 4. NAME AND ADDRESS OF REPRESENTATIVE: N/A
- 5. DATE AND PLACE OF INCIDENT: 29 May 2006, Afghanistan
- 6. AMOUNT REQUESTED: 2,000,000 Afghani
- 7. EQUIVALENT IN US CURRENCY: Current Exchange Rate
- 8. FACTS: See investigation memo
- 9. LIABILITY: The request is cognizable and considered meritorious
- 10. QUANTUM:

Amount requested: 2,000,000 Afghani

Amount Approved: 200,000 Afghani

- 11. FUND CITE # 2162020 22-0204 P436099.22-4200 VFRE F3203 S99999 APC K226(83) A1U
- 12. ACTION: Claimant paid for substantiated loss
- 13 PAYMENT AMOUNT: 200,000 Afghani
- 14. EQUIVALENT IN US CURRENCY: Current exchange rate
- 15. COMMISSIONER'S SIGNATURE/DATE:



Foreign Claims Commissioner