

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

AFZP-VA-HQ

20 June 2006

CP3AAS&1490618-11 MEMORANDUM FOR RECORD

SUBJECT: Commander's Emergency Response Program payment to (Claim Number 06-IR8-254)

- 1. On 2 December 2005, was shot and killed by CF as he tried to enter the path of a convoy.
- 2. I certify that CERP funds are available to pay least the second least the amount of \$2,500.00. This is a condolence payment.
- 3. The request to pay leading to the second of this payment and it is accordingly approved.

CPT, EN
Project Purchasing Officer



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

18 May 2006

MEMORANDUM OF OPINION

SUBJECT: Claim of

06-IR8-254

1. Identifying Data:

by Attorney

- 2. Date and place the incident occurred giving rise to the claim: The claim occurred on 2 December 2005 in Balad, Iraq.
- 3. Amount of claim and date it was filed: Claimant filed a claim for \$2,500 on 7 Feb. 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 brother was killed when he was driving in Balad when a CF convoy allegedly shot him. The convoy was allegedly driving down the wrong direction of the road. The deceased, allegedly tried to pull over to the side of the road but was shot. The incident allegedly occurred about one kilometer outside Balad, near the city train station. A SIGACTS investigation revealed that 32 SIG BN had an escalation of force with a local national vehicle when the LN vehicle was traveling slowly down in front of the convoy. The elad vehicle waved the LN off the road and the convoy passed the vehicle. The LN truck then reentrered the convoy at a high rate of speed aimingt straight at the lead vehicle. The gunner of the lead vehicle shot and killed the driver. The convoy continued movement without stopping, IP later recovered the body of the man.
- 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 deceased was killed during an escalation of force. Escalation of force constitutes combat in this instance because the gunner was firing at the vehicle in anticipatory self defense and the threatening nature of the vehicle.

7. Recommendation: The claim is denied.

CPT, JA

Claims Judge Advocate

CO1166



DEPARTMENT OF THE ARMY

HEADQUARTERS, 101ST AIRBORNE DIVISION (AIR ASSAULT)
TASK FORCE BAND OF BROTHERS
FORWARD OPERATING BASE SPEICHER
APO AE 09393

AFZB-JA-C

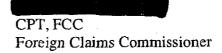
MEMORANDUM FOR Claimant

SUBJECT: Claim Denial

- 1. This is in response to your claim against the United States Government. Your claim has been reviewed under the Foreign Claims Act, 10 U.S.C. 2734, as implemented by Army Regulation 27-20, Chapter 10. I regret to inform you that your claim has been denied.
- 2. Your claim has been denied for the following reasons:
- a. There is not enough evidence to prove your claim.
 - b. The evidence shows that United States Forces did not cause the damage.
 - c. The evidence shows that the damage was caused during combat.
 - d. The evidence shows that the damage was caused by your own negligence or wrongdoing.
 - e. The evidence shows that your claim was fraudulent.

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- 3. If this is the first time your claim has been viewed by this office, you may submit an appeal. This office must receive the appeal no later than 30 days after receipt of this message. The appeal must also contain additional evidence proving your claim. If the appeal is sent after 30 days has passed, or does not provided additional evidence, then the appeal will be denied.
- 4. POC is the 101st Airborne Division (Air Assault) Claims Office at DSN 318-845-1022.



	Claims Form
	ited States Army Foreign Clams Commission
From:	Nameddress:
	Balad Al Saad
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	b- A permanent resident of:
	c- Employed by: d- Cheek one () An insurer () Not an insurer
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