



Office of the General Counsel

B-233183.3

September 14, 1995

Ms. Jeanne DiGange
Certifying Officer
U.S. Department of Agriculture
National Finance Center
P.O. Box 60,000
New Orleans, LA 70160

Dear Ms. DiGange:

This letter is in regard to Mrs. June P. Thomas's claim for the unpaid compensation due her deceased son, Mr. John A. Thomas, an employee of the Department of Agriculture at the time of his death in 1987. The disbursement of this compensation was the subject of our decision, Estate of John A. Thomas, 68 Comp. Gen. 284 (1989), in which we considered competing claims by Mrs. Thomas and Mr. Manuel de Jesus Thomas Rivas, who claimed to be Mr. John Thomas's son. Resolution of the matter required a determination of whether Mr. Rivas legally qualified as Mr. Thomas's son, a matter we found to be too uncertain for us to resolve. We concluded therefore, that the claims were too doubtful for payment to either claimant, and we left the claimants to pursue their remedy in a court of competent jurisdiction.

Subsequently, in June P. Thomas v. Office of Personnel Management, No. 92-3373 (Fed. Cir. April 5, 1993),¹ copy enclosed, which involved Mr. Thomas's Civil Service Retirement Fund lump-sum benefit, the court concluded that Mr. Rivas had not established his entitlement to payment and ordered payment of the lump-sum benefit to Mrs. Thomas. The determinative issue before the tribunals involved in that action was the same issue involved in the claim before our Office, *i.e.*, whether Mr. Rivas had established that he is Mr. Thomas's son. In view of the court's

¹Reversing a decision of the Merit Systems Protection Board directing payment to Mr. Rivas, on the basis that he qualified as Mr. Thomas's surviving child under 5 U.S.C. § 8342(c) (1988).

decision, we consider that the doubt as to the proper payee of the unpaid compensation has been resolved in Mrs. Thomas's favor.

Accordingly, payment of the unpaid compensation should be made to Mrs. Thomas pursuant to 5 U.S.C. § 5582(b).

Mrs. Thomas has executed a General Power of Attorney appointing another son, Mr. Charles A. Thomas, as her attorney in fact, and he has pursued her claim before our Office on this basis. We have verified that this Power of Attorney is valid and remains in effect. Accordingly, although payment should be made in Mrs. Thomas's name, the check should be sent to:

Mr. Charles A. Thomas
Attorney In Fact for Mrs. June P. Thomas
3109 Monticello Drive
Raleigh, NC 27612

If you have any questions, please call Mr. Paul Britner, our staff attorney assigned to this matter, at (202) 512-8495.

Sincerely yours,

/s/Seymour Efros
for Robert P. Murphy
General Counsel

Enclosure