

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

DISMISSED IN PART: December 10, 2001

GSBCA 15658-TD

SCHRAGER AUCTION GALLERIES, LTD.,

Appellant,

v.

DEPARTMENT OF THE TREASURY,

Respondent.

A. J. Schrager, Schrager Auction Galleries, Ltd., Milwaukee, WI, appearing for Appellant.

Donald M. Suica and Eric Colin Crane, Office of Chief Counsel, Internal Revenue Service, Department of the Treasury, Washington, DC, counsel for Respondent.

WILLIAMS, Board Judge.

In this appeal, Schrager Auction Galleries, Ltd., appellant, seeks \$10,000 for services it allegedly performed in conjunction with a sale of certain seized property including coins and jewelry which the Internal Revenue Service (IRS) ultimately canceled. Appellant contends that between December 23, 1999, and March 28, 2000, it spent three months of intensive labor inventorying and preparing the items for sale and accelerated its efforts in order to meet the IRS' scheduled sale date of June 22-23, 2000. The \$10,000 it is seeking represents the employee hours and commissions that were lost as well as certain appraisal costs. The appellant also seeks \$50,000 in punitive damages based upon its claimed mistreatment by individuals representing the United States Government.

This matter comes before the Board on respondent's motion to dismiss the punitive damages portion of the claim.

Discussion

Absent express consent of Congress, no punitive damages can be recovered against the United States. Janice Cox d/b/a Occupro Limited, ASBCA 50,587, 01-1 BCA ¶ 31,377, citing, Advance Engineering Corp., ASBCA 46889, 95-1 BCA ¶ 27,475, at 136,870, affd

on reconsideration, 96-1 BCA ¶ 28,003; Missouri Pacific Railroad Co. v. Ault, 256 U.S. 554, 564 (1921) ("The purpose for which the Government permitted itself to be sued was compensation, not punishment.").

This Board has no subject matter jurisdiction to award punitive damages since there has been no waiver of sovereign immunity for such a suit in this forum. As such, respondent's motion to dismiss in part is **GRANTED**.

MARY ELLEN COSTER WILLIAMS
Board Judge

We concur:

EDWIN B. NEILL
Board Judge

ALLAN H. GOODMAN
Board Judge