Text as published on gao.gov, https://www.gao.gov/products/b-101301, archived 2026-08-28. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-101301 July 19, 1951

Number: B-101301

Date: 1951-07-19

B-101301 July 19, 1951

The Administrator of Veterans Affairs Veterans Administration

My dear Mr. Administrator:

Reference is made to letter dated February 5, 1951, from the Deputy Administrator, requesting that consideration to given under the act of August 1, 1947, 61 Stat. 720. 31 U.S.C. 82a-1, to relieving Hollis F. Linker, Collection Clerk, Veterans Administration Regional Office, Pittsburgh 22, Pennsylvania, of responsibility for a loss of $50 from resulting from her acceptance of a counterfeit$50 bill.

It is not forth in the said letter that it has been determined the employee exercised reasonable care and diligence in performing her duties and that she was without fault or negligence in falling to stool the counterfeit note. It is stated further therein, that the shortage was covered from the employee's personal funds and that in a similar come where restitution had been affected, it was held by this Office that the statute did not authorize or permit refunds. However, the letter states that it is is understood consideration is being given to determining whether such refunds were within the congressional intent in enacting the said statute and are authorized thereby. It has been ascertained that the amount collected from the employee was deposited as an insurance collection.

Presumeably, the decision referred to in the said letter is B-97275, of August 29, 1950, wherein it was hold as to a physical loss of a ($20 collection, restitution of which was made by the employee there involved, that "there is no present deficiency in his accounts for the relief of which consideration might be given under that act" (the act of August 1, 1947, 61 Stat. 720). To the same effect see 87 Comp. Gen. 404, where it was hold, as follows (quoting the syllabus).

"The provisions of the act of August 1, 1947, authorizing the General Accounting Office to relieve, in proper cases, accountable officers of responsibility on account of deficiency of Government funds, have no application in the case of an accountable officer who personally ensured a shortage in his official accounts which arose while making change in connection with the sale of surplus property."

Also, see B-79858, of November 5, 1948, and July 21, 1949, to the Postmaster General and B-89465 of October 20, 1949, to the Administrator, General Services Administration, for similar holdings.

An examination of the legislative history of the act of August 1, 1947, show that in reporting on 5.215, 78th Congress, a bill to authorize relief of disbursing officers of the Army as to physical losses which become the act of December 13, 1944, 58 Stat. 800, 31 U.S.C. 95a, the General Accounting Office, by letter dated Novermber 16, 1943, A-19021, B-27149, to the Committee on expenditures in the Executive Departments, House of Representatives, suggested broadarding the bill there proposed to cover all disbursing officers but that no motion was then taken by the Congress on such suggestion in connection with that bill. In a report on S.1550, 80th Congress, a somewhat similar bill for the relief of the chief disbursing officer, Division of Disbursement, this Office, by letter of June 13, 1947, B-47792, suggested broadarding the bill so as to authorize relief of any accountable officer of the Government as to physical losses which concurred without his faults or negligence and a draft of bill was therein recommended. The act of August 1, 1947, after consideration of the findings of the head of the agency concerned, to relieve any discharging or or other accountable officer or agent charged with physical loss or deficiency of Government funds, vouchers, etc., if, while the officer or agent was acting in the discharge of his official duties, the loss of deficiency concurred without fault or negligence on his part. There appears no suggestion in the legislative history that the law was intended to authorize refunds of amounts where restitution was made by the employee, nor does the act explicitly authorize such refunds or make appropriations therefor, and if it had been the congressional intention to authorize such refunds, it appears no difficulty would have been encountered in wording the law to so provide.

In addition, the view that such refunds were not comtemplated appears to be strengthened by later legislative enactments or proposals to the Congress. Thus, after this Office, by letter of April 21, 1948, B-74470, to the Postmaster General, hold that relief under the act of August 1, 1947, could not be granted to John I. Balarin for a physical loan of $916.78 covered by his from his personal funds, the Congress, by Private Law 5, Stat Congress, enacted March 22, 1949, authorized such refund. In connection therewith, there was made a part of the support of such bill, a letter from the Postmaster Gerneral, which, after reciting that his Office had held there was no deficiency which could be relieved under the act of August 1, 1947, stated: "Accordingly, the only avenue of relief open to Mr. Harlarin is by special act of Congress." And thus, by Private Law 668, 81st Congress approved August 26, 1950, relief of certain disbursing officers of the naval services was authorized, the report therein (R. Hap, 2827) stating in part:

"The loans or payments were incurred or made during the period occurred by the act of July 26, 1947 (Public 248, 61 Stat. 493.) The disbursing officers or former disbursing officers involved, however, though eligible in all other resquests, could not be given relief under that act because they reimbursed the department for the shortages in their accounts and the accounts were settled without any dificiencies therein. (Parentatinal matter supplied.)

Also, section 3 of H.R. 4532, 82nd Congress, entitled "A Bill For the Relief of certain disbursing officers of the Army of the United States, and for other purposes" would authorize similar relief. In letter of this office data December 1, 1950, B-98557, to the Bureau of the Budget, relative to this motion, it is stated as follows:

"* * * However, it is noted that the losses for the most part concurred during the period September 8, 1939, to July 1, 1946, the period as to which by the act

of July 26, 1947, supra, this Office during the two-year period following its enactment--the authorized to relieve any disbursing officers for losses of funds or accounts for which they were responsible where the losses occurred without fraud of collusion and in good faith. And the accounts of the shortage not been supplied by the said officers on reported and had the losses come to the attention of the Officer during the hold two-year period, it appears they might have been relieved under the act of July 26, 1947. Also, if the amounts had not been made good by the hold officers from their personal funds and if appropriateed findings had been made by the Department of the Army, it appears that the losses might have been adjusted or relieved under the act of December 13, 1944, 58 Stat. 800, 31 U.S.C. 95a, the act of August 1, 1947, 61 Stat. 720, 31 U.S.C. 82a-1, of the act of December 23, 1944, 58 Stat. 921. 50 U.S.C. app. 1705-1707. Since it appears likely that similar losses where the amounts of the shortages were not supplied by the accountable officers have been relieved under the above-cited nots, it would not appear equitable to retain the amounts reportedly supplied by the officers here involved who could also have been relieved but for the same payments* * *."

Also, see S. 1433, 82nd Congress, and S. Rep. No. 363 on "A BILL For the relief of Paul D. Banning, chief disbursing officer, Treasury Department, and for other purpose," suction (b) of which would appropriats $360 to various-named employee of the Bureau of Internal Revenue to reimburse thus for amounts paid by them from their personal funds in their charge; since that act contains no specific provision authorizing such refunds to be made and makes on appropriation therefor and no other appropriation has been found authorizing such refunds. I an constrained to the view that there is no authority for granting relief under the act to an accountable officer where such officer has undo restitution thereof and such amount has been deposited to the applicable account. Under the circumstances, relief to Hollie W. Linder must be denied. However, this Office would not be disposed to object to a relief measure on her behalf, and on behalf of employees of your Administration similarly situated, should your Administration were fit to sponsor such a bill.

Sincerely yours,

FRANK L. YATES Acting Comptroller General of the United States