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B-142051, Mar. 22, 1960

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B-142051, MAR. 22, 1960

TO THE SECRETARY OF STATE:

BY LETTER OF JANUARY 7, 1960, THE HONORABLE LANE DWINELL, ASSISTANT SECRETARY, REQUESTED THAT CONSIDERATION BE GIVEN TO GRANTING RELIEF UNDER THE ACT OF AUGUST 11, 1955, 69 STAT. 687, 31 U.S.C. 82A-2, TO ANN CHILD, FORMER UNITED STATES DISBURSING OFFICER AT ROME, ITALY, FOR A DEFICIENCY IN HER ACCOUNTS OF LIRE 36,669, EQUIVALENT TO $58.67, RESULTING FROM A DUPLICATE PAYMENT MADE FOR THE ACCOUNT OF THE VETERANS ADMINISTRATION IN AUGUST 1957.

THE RECORD BEFORE OUR OFFICE DISCLOSES THAT MISS CHILD, ON THE BASIS OF INSTRUCTIONS DATED APRIL 5, 1957, FROM THE TREASURY DEPARTMENT AND IN ACCORDANCE WITH EXISTING PROCEDURES, MADE SEVERAL PAYMENTS, INCLUDING THE PAYMENT OF LIRE 36,669 TO ONE VITANTONIO DONVITO. BECAUSE OF A SUBSEQUENT CHANGE OF PROCEDURE, MISS CHILD WROTE TO THE CHIEF DISBURSING OFFICER ON JULY 9, 1957, ADVISING HIM THAT THESE PAYMENTS HAD BEEN MADE UNDER THE OLD PROCEDURE PRIOR TO RECEIPT OF NOTICE OF THE NEW PROCEDURE, AND REQUESTING ADVICE AS TO THE PROPER HANDLING THEREOF. BY LETTER OF JULY 23, 1957, THE CHIEF DISBURSING OFFICER FORWARDED TO MISS CHILD VOUCHER SCHEDULES COVERING THESE PREVIOUS PAYMENTS, TOGETHER WITH APPROPRIATE INSTRUCTIONS. THE LETTER CLEARLY STATED THAT THE ATTACHED VOUCHER SCHEDULES COVERED THE PAYMENTS REFERRED TO IN MISS CHILD'S LETTER OF JULY 9 AND REITERATED THE FACT THAT PAYMENT THEREOF HAD ALREADY BEEN MADE. NEVERTHELESS, MISS CHILD MADE ADDITIONAL PAYMENTS ON THE BASIS OF THE VOUCHER SCHEDULES, RESULTING IN DUPLICATE PAYMENTS TO THE PERSONS INVOLVED. SUBSEQUENTLY, FULL RECOVERY OF THE DUPLICATE PAYMENTS WAS MADE FROM ALL PERSONS INVOLVED, EXCEPT FOR THE LIRE 36,669 PAID TO VITANTONIO DONVITO. AFTER SEVERAL FRUITLESS ATTEMPTS TO COLLECT FROM DONVITO, THE DEBT ADMINISTRATIVELY HAS BEEN DETERMINED TO BE UNCOLLECTIBLE AND RELIEF HAS BEEN REQUESTED FOR MISS CHILD.

SECTION 62A-2 OF TITLE 31, U.S.C. AUTHORIZES THE COMPTROLLER GENERAL, IN HIS DISCRETION, TO RELIEVE A DISBURSING OFFICER OR A FORMER DISBURSING OFFICER OF THE UNITED STATES OF ACCOUNTABILITY AND RESPONSIBILITY FOR A DEFICIENCY IN HIS OFFICIAL DISBURSING ACCOUNTS ARISING FROM THE MAKING OF AN ILLEGAL, IMPROPER, OR INCORRECT PAYMENT WHENEVER THE COMPTROLLER GENERAL DETERMINES, ON HIS OWN MOTION OR UPON WRITTEN FINDINGS AND RECOMMENDATIONS MADE BY THE HEAD OF THE GOVERNMENT AGENCY CONCERNED, THAT SUCH PAYMENT WAS NOT THE RESULT OF BAD FAITH OR LACK OF DUE CARE ON THE PART OF THE DISBURSING OFFICER. THE ASSISTANT SECRETARY'S LETTER STATES THAT THE PAYMENT HERE INVOLVED WAS NOT THE RESULT OF BAD FAITH, AND THERE IS NOTHING IN THE RECORD BEFORE US TO CONTROVERT THIS STATEMENT. HOWEVER, THE LETTER MAKES NO MENTION OF THE EXERCISE OF DUE CARE, AND THE RECORD DOES NOT SUPPORT A FINDING THAT THE PAYMENT WAS NOT THE RESULT OF LACK OF DUE CARE. ON THE CONTRARY, THE RECORD CLEARLY SHOWS THAT MISS CHILD MADE THE DUPLICATE

PAYMENT HERE INVOLVED DESPITE THE FACT THAT THE VOUCHER SCHEDULE ON WHICH THE DUPLICATE PAYMENT WAS MADE HAD BEEN FURNISHED HER IN RESPONSE TO HER OWN REQUEST FOR INSTRUCTIONS AS TO HOW TO HANDLE CERTAIN PAYMENTS PREVIOUSLY MADE, AND DESPITE THE FACT THAT THE LETTER FORWARDING SUCH VOUCHER SCHEDULE EXPRESSLY REFERRED TO HER REQUEST FOR INSTRUCTIONS AND CLEARLY STATED THAT THE VOUCHERS FORWARDED THEREWITH COVERED PAYMENTS PREVIOUSLY MADE. IT WOULD APPEAR THAT A DUPLICATE PAYMENT MADE UNDER SUCH CIRCUMSTANCES COULD ONLY BE DUE TO LACK OF DUE CARE.

THUS, THE RECORD PRESENTLY BEFORE OUR OFFICE CANNOT SUPPORT A DETERMINATION THAT THE OVERPAYMENT HERE INVOLVED WAS NOT THE RESULT OF LACK OF DUE CARE ON THE PART OF THE DISBURSING OFFICER AS REQUIRED BY 31 U.S.C. 82A-2 AND RELIEF THEREUNDER MUST BE DENIED.