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B-142326, Mar. 31, 1960

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TO THE SECRETARY OF STATE:

A LETTER DATED FEBRUARY 23, 1960, SIGNED BY THE ASSISTANT SECRETARY ON YOUR BEHALF REQUESTS THAT PURSUANT TO THE PROVISIONS OF THE ACT OF AUGUST 1, 1947, 61 STAT. 720, AS AMENDED BY THE ACT OF AUGUST 9, 1955, 69 STAT. 626, 31 U.S.C. 82A-1, CONSIDERATION BE GIVEN BY OUR OFFICE TO THE GRANTING OF RELIEF TO HELEN H. LARSON, FORMER UNITED STATES DISBURSING OFFICER AT TAIPEI, TAIWAN, FOR SHORTAGES IN HER ACCOUNTS FOR FEBRUARY 1959, TOTALING $240.

IT IS REPORTED THAT ON FEBRUARY 2, 1959, MISS LARSON OBTAINED $30,000 IN PACKAGES OF $20, $10, $5, AND $1 BILLS FROM THE TAIWAN BASE COMMAND DISBURSING OFFICE IN EXCHANGE FOR A TREASURY CHECK, AND THAT SHE VERIFIED THE AMOUNT BY A PACKAGE COUNT BUT DID NOT ACTUALLY COUNT THE BILLS AT THE TIME THEY WERE RECEIVED. ALSO, IT IS REPORTED THAT DURING THE ROUTINE DAILY PROCESS OF BALANCING THE CASH DRAWER ON THE AFTERNOON OF FEBRUARY 24, 1959, A SHORTAGE OF $60 WAS DISCOVERED, AND A REVIEW OF PAID VOUCHERS AND OTHER TRANSACTIONS DURING FEBRUARY DID NOT INDICATE THAT THE SHORTAGE WAS THE RESULT OF BOOKKEEPING ERROR OR AN OVERPAYMENT. SUBSEQUENTLY, AN ADDITIONAL SHORTAGE OF $180 WAS DISCOVERED ON MARCH 2, 1959, WHEN THE MONTHLY COUNT OF ALL CASH ON HAND, MADE BY TWO DISINTERESTED OFFICERS, REVEALED THAT NINE $20 BILLS WERE MISSING FROM ONE OF THE PACKAGES OF BILLS CONTAINED IN THE SAFE.

THE RECORD DISCLOSES THAT AFTER THE LOSS OF $60 WAS DISCOVERED, MISS LARSON MADE A BILL BY BILL COUNT OF ALL THE CASH ON HAND ON FEBRUARY 26, 1959, AND EXCEPT FOR THE MISSING $60, NO DISCREPANCY WAS FOUND EITHER IN THE CASH DRAWER OR IN THE PACKAGES OF BILLS IN THE SAFE. ALSO, THE RECORD SHOWS THAT THE EMBASSY SECURITY OFFICER CONDUCTED A THOROUGH INVESTIGATION WHICH DISCLOSED THE POSSIBILITY OF UNAUTHORIZED ACCESS TO THE COMBINATION OF THE SAFE IN WHICH THE CASH FUNDS WERE STORED. HOWEVER, ALL AMERICAN EMPLOYEES, INCLUDING MISS LARSON, AND ALL MARINE GUARDS WHO COULD HAVE OBTAINED THE COMBINATION TO THE SAFE, WERE GIVEN POLYGRAPH TESTS WHICH FAILED TO INDICATE THAT ANY OF THEM HAD REMOVED THE MISSING FUNDS FROM THE DISBURSING OFFICE. THE REPORT OF INVESTIGATION REVEALS THAT TWO LOCAL EMPLOYEES WHO HAD ACCESS TO THE DISBURSING OFFICE WERE NOT GIVEN POLYGRAPH TESTS, HOWEVER, THERE IS NO EVIDENCE OF RECORD INDICATING THAT EITHER OF THEM REMOVED THE MISSING FUNDS OR WERE IN ANY WAY RESPONSIBLE FOR THE LOSS.

THE RECORD DISCLOSES FURTHER THAT THE DISBURSING OFFICER AT THE TAIWAN BASE COMMAND WAS QUESTIONED AS TO WHETHER IT WAS POSSIBLE THAT MISS LARSON COULD HAVE RECEIVED A PACKAGE OF BILLS WHICH DID NOT CONTAIN THE PROPER NUMBER OF BILLS. HE STATED THAT IT WAS HIGHLY UNLIKELY THAT ARMY PERSONNEL WERE RESPONSIBLE FOR THE SHORTAGE DUE TO ARMY REGULATIONS AND THE USE OF EXPERIENCED MONEY HANDLERS. HIS

STATEMENT IS SUBSTANTIATED BY THE FACT THAT WHEN MISS LARSON MADE A BILL BY BILL COUNT OF ALL THE CASH ON HAND ON FEBRUARY 26, 1959, NO SHORTAGE APPEARED IN THE PACKAGES OF BILLS STORED IN THE SAFE.

A DISBURSING OFFICER IS AN INSURER OF THE PUBLIC FUNDS IN HIS CUSTODY AND IS EXCUSABLE ONLY FOR LOSS DUE TO ACTS OF GOD OR THE PUBLIC ENEMY. UNITED STATES V. THOMAS, 15 WALL. 337. THIS LIABILITY IS UNAFFECTED BY LACK OF NEGLIGENCE ON THE PART OF THE DISBURSING OFFICER, OR THE ABSENCE OF EVIDENCE THAT HE MISAPPROPRIATED THE FUNDS OR THAT THE LOSS RESULTED FROM HIS FAULT. UNITED STATES V. PRESCOTT, 3 HOW. 578; SMYTHE V. UNITED STATES, 188 U.S. 156; 18 COMP. GEN. 639 AND CASES CITED THEREIN.

THE ACT OF AUGUST 1, 1947, 61 STAT. 720, AS AMENDED BY THE ACT OF AUGUST 9, 1955, 69 STAT. 626, AUTHORIZES THE GENERAL ACCOUNTING OFFICE TO RELIEVE DISBURSING OFFICERS OF RESPONSIBILITY FOR PHYSICAL LOSS OR DEFICIENCY OF GOVERNMENT FUNDS IF THE HEAD OF THE DEPARTMENT CONCERNED DETERMINES (1) THAT SUCH OR DEFICIENCY OCCURRED WHILE THE OFFICER WAS ACTING IN THE DISCHARGE OF HIS OFFICIAL DUTY, OR THE LOSS OR DEFICIENCY OCCURRED BY REASON OF THE ACT OR OMISSION OF HIS SUBORDINATE; AND (2) THAT SUCH LOSS OR DEFICIENCY OCCURRED WITHOUT FAULT OR NEGLIGENCE ON THE PART OF THE OFFICER, AND THE GENERAL ACCOUNTING OFFICE CONCURS WITH SUCH DETERMINATION AFTER CONSIDERATION OF THE PERTINENT FINDINGS.

IN THE PRESENT CASE, NEITHER THE LETTER OF FEBRUARY 23, 1960, NOR THE RECORD FURNISHES A SATISFACTORY EXPLANATION AS TO HOW THE LOSS OF THE FUNDS IN QUESTION OCCURRED. ALSO, THERE IS NO POSITIVE OR AFFIRMATIVE EVIDENCE OF NEGLIGENCE ON THE PART OF MISS LARSON. HOWEVER, THE MERE FACT THAT AN UNEXPLAINED SHORTAGE OF FUNDS OCCURRED IS, IN AND OF ITSELF, SUFFICIENT TO RAISE AN INFERENCE OF NEGLIGENCE. A GOVERNMENT OFFICIAL CHARGED WITH THE HANDLING OF PUBLIC MONEYS IS EXPECTED TO EXERCISE THE HIGHEST DEGREE OF CARE IN THE PERFORMANCE OF HIS DUTY AND, WHEN FUNDS DISAPPEAR WITHOUT EXPLANATION OR EVIDENT REASON, THE PRESUMPTION NATURALLY ARISES THAT THE OFFICIAL HAVING RESPONSIBILITY FOR SUCH FUNDS WAS DERELICT IN SOME WAY.

ACCORDINGLY, IN THE ABSENCE OF EVIDENCE AS TO WHAT ACTUALLY HAPPENED TO THE MISSING MONEY FROM WHICH IT MAY BE DETERMINED THAT THE DISAPPEARANCE WAS NOT DUE TO THE FAULT OR NEGLIGENCE OF MISS LARSON, WE ARE UNABLE TO CONCUR WITH THE ADMINISTRATIVE DETERMINATION OF LACK OF NEGLIGENCE, AND, HENCE, CANNOT GRANT RELIEF ON THE BASIS OF THE PRESENT RECORD.