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POSTMASTERS - LIABILITY RELIEF - COUNTERFEIT MONEY DECISION TO POSTMASTER GENERAL CONCERNING ALLOWANCE OF CREDIT IN ACCOUNT OF POSTMASTER UNDER 39 U.S.C. 2401 WHEN SERIAL NUMBER OF COUNTERFEIT BILL ACCEPTED BY POSTAL EMPLOYEE HAD BEEN POSTED. POSTMASTER WHO, AFTER POSTING OF SERIAL NUMBERS OF FOUR $20 COUNTERFEIT BILLS AND ADVISING EMPLOYEES THAT COUNTERFEIT BILLS WERE BEING CIRCULATED IN VICINITY, HAD ONE COUNTERFEIT BILL ACCEPTED AT POST OFFICE MAY NOT BE RELIEVED OF LIABILITY SINCE EMPLOYEE WHO ACCEPTED COUNTERFIET BILL WAS CARELESS OR NEGLIGENT AND DID NOT EXERCISE DUE CARE, THEREFORE, CREDIT MAY NOT BE AUTHORIZED. RELIEF SHOULD NOT BE GRANTED EVEN THOUGH SERIAL NUMBERS ARE NOT POSTED OR BROUGHT TO EMPLOYEES' ATTENTION WHERE QUALITY OF COUNTERFEITING IS SUCH THAT AN ORDINARY PRUDENT PERSON WOULD QUESTION AUTHENTICITY OF THE BILL.

TO MR. POSTMASTER GENERAL

CONSIDERATION HAS BEEN GIVEN TO YOUR LETTER OF JUNE 23, 1967, IN WHICH, WITH REFERENCE TO THE CASE INVOLVING THE POSTMASTER AT DAYTON, OHIO, YOU ASK WHETHER WE CAN CONCUR IN ALLOWING CREDIT IN THE SETTLEMENT OF A POSTMASTER'S ACCOUNT UNDER THE PROVISIONS OF 39 U.S.C. 2401 WHEN THE SERIAL NUMBER OF A COUNTERFEIT BILL WAS POSTED AT A BUSINESS WINDOW OF THE POST OFFICE PRIOR TO ITS ACCEPTANCE BY A POSTAL EMPLOYEE.

IN THE CASE TO WHICH YOU REFER A $20 COUNTERFEIT BILL WAS ACCEPTED ON OCTOBER 8, 1965, BY ONE OF THREE EMPLOYEES AT THE NORTH BRIDGE BRANCH OF THE DAYTON, OHIO, POST OFFICE. WHICH OF THE THREE ACCEPTED THE BILL IS NOT KNOWN. PREVIOUSLY, IN A SPECIAL NOTICE DATED SEPTEMBER 17, 1965, THE POSTMASTER FURNISHED INFORMATION OF ADVICE RECEIVED THAT A NUMBER OF COUNTERFEIT BILLS BEARING FOUR STATED SERIAL NUMBERS HAD MADE AN APPEARANCE IN THE DAYTON AREA. THE NOTICE ALSO SAID THAT ALL WINDOW CLERKS SHOULD BE ALERTED IN ACCEPTING $20 DOLLAR BILLS TO MAKE SURE THAT NONE OF THESE COUNTERFEIT BILLS WERE BEING CIRCULATED. THE ACCEPTED BILL HAD ONE OF THE STATED SERIAL NUMBERS.

UNDER THESE CIRCUMSTANCES, MR. E. B. SEVITSKI, SUPERVISORY ACCOUNTANT, CIVIL DIVISION, UNITED STATES GENERAL ACCOUNTING OFFICE, IN A LETTER DATED APRIL 3, 1967, INFORMED THE DIRECTOR, FINANCIAL SYSTEMS MANAGEMENT DIVISION, BUREAU OF FINANCE AND ADMINISTRATION, POST OFFICE DEPARTMENT, THAT HE DID NOT CONCUR IN THE DIRECTOR'S OPINION THAT HUGH T. ALBRIGHT, POSTMASTER AT DAYTON, OHIO, SHOULD BE ALLOWED $20 CREDIT IN THE SETTLEMENT OF THE POSTMASTER'S ACCOUNT. RELIEF HAD BEEN REQUESTED UNDER THE PROVISIONS OF 39 U.S.C. 2401.

YOUR PRESENT LETTER STATES THAT (1) WHENEVER A CLERK STOPS TO CHECK A SUSPECTED BILL AGAINST A LIST OF COUNTERFEITS, POSTAL BUSINESS IS SLOWED AND THE PUBLIC IS

IRRITATED (2) CONCEIVABLY, THE EMPLOYMENT OF AN EXTRA WINDOW CLERK WOULD BE NECESSARY DURING RUSH HOURS, AND (3) THE YEARLY AVERAGE FOR ACCEPTING COUNTERFEIT BILLS DURING THE PAST FOUR YEARS IS $4,674.

YOU FEEL THAT THE YEARLY AVERAGE OF THE MAXIMUM MONETARY BENEFITS THAT COULD POSSIBLY BE REALIZED BY HAVING YOUR WINDOW CLERKS CHECK THE SERIAL NUMBERS ON ALL BILLS WOULD NOT OFFSET THE TIME AND EFFECTIVENESS THAT WOULD RESULT FROM THE SLOWING DOWN IN WINDOW SERVICE TO MAKE CERTAIN THAT EVERY BILL RECEIVED QUALIFIED AS LEGAL TENDER. ALSO HOLDING THE CLERKS, WHO ACCEPTED THE COUNTERFEIT BILLS, RESPONSIBLE FOR THE LOSS SEEMS TO YOU TO BE WITHOUT EQUITY AND GOOD CONSCIENCE. YOU POINT OUT THAT MOST OF THE OVER 100,000 WINDOW CLERKS AND POSTMASTERS WHO HANDLE CASH TRANSACTIONS ARE LOYAL AND CONSCIENTIOUS EMPLOYEES WHO MAY INADVERTENTLY ACCEPT WORTHLESS BILLS WHILE CONDUCTING THEIR DAILY BUSINESS UNDER THE PRESSURE THAT IS DEMANDED OF PUBLIC SERVANTS.

YOU HAVE RECENTLY MADE INQUIRY OF OTHER GOVERNMENT AGENCIES. ONE POSTS SERIAL NUMBERS OF COUNTERFEIT BILLS KNOWN TO BE IN CIRCULATION. IF ONE IS ACCEPTED THE CLERK IS NOT HELD PERSONALLY RESPONSIBLE. ANOTHER AGENCY DOES NOT POST LISTS OF SERIAL NUMBERS AND DOES NOT HOLD THE CLERKS INVOLVED PERSONALLY LIABLE.

NOTWITHSTANDING THE LOYALTY AND CONSCIENTIOUSNESS OF THE WINDOW CLERKS AND POSTMASTERS, WE DO NOT KNOW OF ANY AUTHORITY WHEREBY THEY COULD BE GRANTED BLANKET RELIEF FROM LIABILITY WHEN THEY INADVERTENTLY ACCEPT WORTHLESS BILLS WHILE CONDUCTING THEIR DAILY BUSINESS UNDER THE PRESSURE THAT IS DEMANDED OF PUBLIC SERVANTS. CF. 38 COMP. GEN. 128. WE ARE NOT AWARE OF THE PRACTICE WHICH YOU REPORT EXISTS IN SOME OTHER AGENCIES OF NOT HOLDING EMPLOYEES PERSONALLY RESPONSIBLE FOR THE ACCEPTANCE OF COUNTERFEIT BILLS. ALSO IT VERY WELL MAY BE THAT THE AMOUNT INVOLVED IS SMALL BECAUSE IT IS KNOWN THAT POST OFFICE WINDOW CLERKS CHECK CAREFULLY FOR COUNTERFEIT BILLS.

ORDINARILY ACCOUNTABLE AND RESPONSIBLE OFFICERS MAY BE RELIEVED FROM LIABILITY ONLY IN ACCORDANCE WITH PROVISIONS OF LAW WHICH AUTHORIZE THE GRANTING OF SUCH RELIEF. SECTION 2401 OF TITLE 39, UNITED STATES CODE (1964 EDITION), CITED IN YOUR LETTER IS SPECIFICALLY APPLICABLE TO THE POSTAL SERVICE. SEE ALSO 39 U.S.C. 2403. RELIEF IS AUTHORIZED BY 31 U.S.C. 95A IN CERTAIN CASES OF ACTUAL, PHYSICAL LOSS OR DEFICIENCY OF GOVERNMENT FUNDS, VOUCHERS, RECORDS, OR PAPERS IN THE CHARGE OF ANY DISBURSING OFFICER OF THE ARMY, NAVY, AIR FORCE, OR MARINE CORPS. THE PROVISIONS OF 31 U.S.C. 82A-1, 92A-2, AND 82C ARE OF MORE GENERAL APPLICATION. SEE ALSO 28 U.S.C. 1496 AND 2512 WHICH GIVE THE COURT OF CLAIMS JURISDICTION TO RENDER JUDGMENT AND GRANT RELIEF FOR CERTAIN LOSSES OF A DISBURSING OFFICER AND AUTHORIZE THE GENERAL ACCOUNTING OFFICE TO ALLOW THE OFFICER THE AMOUNT OF THE JUDGMENT IN THE SETTLEMENT OF HIS ACCOUNTS. AS TO THE NONAPPLICATION TO POSTMASTERS OF THIS AUTHORITY OF THE COURT OF CLAIMS SEE SAM HENDERSON JR., ADM-N. V. THE UNITED STATES, 42 CT. CL. 449. THE APPLICABLE PART OF 39 U.S.C. 2401 IS:

"/B) IN ALL CASES OF DISABILITY OR ALLEGED LIABILITY FOR ANY SUM OF MONEY BY WAY OF DAMAGES OR OTHERWISE, UNDER ANY PROVISION OF LAW IN RELATION TO THE OFFICERS, EMPLOYEES, OPERATIONS, OR BUSINESS OF THE POSTAL SERVICE, THE POSTMASTER GENERAL SHALL DETERMINE WHETHER THE INTERESTS OF THE DEPARTMENT PROBABLY REQUIRE THE EXERCISE OF HIS POWERS OVER THE SAME. UPON THE DETERMINATION THE COMPTROLLER GENERAL, WITH THE WRITTEN CONSENT OF THE POSTMASTER GENERAL AND ON

"/1) REMOVE THE DISABILITY; OR

"/2) COMPROMISE, RELEASE, OR DISCHARGE THE CLAIM FOR SUCH SUM OF MONEY AND DAMAGES.

"/C) SUBSECTION (B) APPLIES TO CASES INVOLVING BALANCES DUE THE UNITED STATES THROUGH ACCOUNTABILITY FOR PUBLIC MONEYS UNDER ANY PROVISIONS OF LAW IN RELATION TO THE OFFICERS, EMPLOYEES, OPERATIONS OR BUSINESS OF THE POSTAL SERVICE, EXCEPT CASES COGNIZABLE UNDER SECTION 2403 OF THIS TITLE.'

THE QUOTED WORDING IS SUBSTANTIALLY BASED UPON THE PROVISIONS OF SECTION 409 OF THE REVISED STATUTES, AS AMENDED. IN 6 COMP. GEN. 791, IT WAS POINTED OUT THAT THOSE PROVISIONS WERE INTENDED TO PROVIDE RELIEF ONLY WHERE THE EMPLOYEE WAS WITHOUT FAULT OR NEGLIGENCE. ACCORDINGLY IT HAS BEEN OUR POLICY TO CONCUR IN THE GRANTING OF RELIEF ONLY WHERE THE FACTS PRESENTED WOULD SUPPORT A FINDING THAT THE PERSON LIABLE HAD ACTED IN GOOD FAITH AND COULD NOT BE GUILTY OF LACK OF DUE CARE OR NEGLIGENCE. NECESSARILY THE FINDING HAS TO BE MADE IN EACH PARTICULAR CASE. CF. GLENN V. UNITED STATES, 4 CT. CL. 501 AND BOGGS V. UNITED STATES, 44 CT. CL. 367. IN THE ABSENCE OF SOME UNUSUAL CONDITION OR CIRCUMSTANCE, WE WOULD BE INCLINED TO HOLD THAT AN EMPLOYEE WHO ACCEPTED A COUNTERFEIT BILL WHEN THE SERIAL NUMBER OF THE BILL WAS POSTED IN HIS WINDOW WAS CARLESS OR NEGLIGENT AND THAT RELIEF SHOULD NOT BE GRANTED.

THE FACTS PRESENTED IN THE DAYTON, OHIO, CASE SHOWED ONLY FOUR SERIAL NUMBERS INVOLVING COUNTERFEIT $20 BILLS. MANY PATRONS AT A POST OFFICE WINDOW DO NOT PRESENT $20 BILLS. SURELY THOSE WHO DO PRESENT SUCH BILLS ORDINARILY ARE NOT SO NUMEROUS AS TO MAKE CHECKING OF FOUR SERIAL NUMBERS AN UNREASONABLE REQUIREMENT. IN OUR OPINION, A PERSON WHO ACCEPTS A COUNTERFEIT BILL WITHOUT CHECKING ITS SERIAL NUMBER ONLY THREE WEEKS AFTER HAVING BEEN NOTIFIED THAT COUNTERFEIT BILLS BEARING FOUR SERIAL NUMBERS WERE BEING CIRCULATED IN HIS IMMEDIATE VICINITY DID NOT EXERCISE DUE CARE. THE CONCLUSION POSSIBLY WOULD BE DIFFERENT IF THERE WERE A LARGE NUMBER OF SERIAL NUMBERS AND THE BILL APPEARED TO BE GENUINE ON ITS FACE.

WE MIGHT ADD THAT RELIEF SHOULD NOT BE GRANTED EVEN THOUGH SERIAL NUMBERS ARE NOT POSTED OR OTHERWISE BROUGHT TO THE EMPLOYEES' ATTENTION, WHERE THE QUALITY OF THE COUNTERFEITING IS SUCH THAT AN ORDINARILY PRUDENT PERSON IN THE SAME SITUATION WOULD QUESTION THE AUTHENTICITY OF THE BILL PRESENTED.