Text as published on gao.gov, https://www.gao.gov/products/b-167827, archived 2026-09-07. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-167827 February 4, 1975

Number: B-167827

Date: 1975-02-04

B-167827 February 4, 1975

The Honorable The Secretary of the Interior

Dear Mr. Secretary:

This decision is in response to a letter dated May 17, 1974, from the Deputy Assistant Secretary--Management, of your Department, which was forwarded to this Office by the Acting Chief Disbursing Officer, Bureau of Government Financial Operations, Department of the Treasury, requesting reconsideration of an action taken by this Office denying relief to an accountable officer for loss in the amount of $235.13.

On August 15, 1969, a letter dated July 25, 1969, from the Acting Deputy Commissioner, Bureau of Indian Affairs, Department of the Interior, was transmitted to this Office by the Chief Disbursing Officer of the Treasury Department, requesting relief from liability for loss pursuant to 31 U.S.C. Sec. 82a-1, for Evans D. Nuvamsa, then a Class "A" Cashier, Winslow, Arizona. The request for relief was a result of an alleged theft of an imprest fund cash box on December 8, 1967, at the Winslow Job Corps Center.

However, this Office denied the requested relief, stating in a letter dated November 7, 1969, that:

"There were signs of breaking and entering of the building prior to the discovery of the missing funds and, absent any negligence on the part of the cashier, this would normally be sufficient to explain the loss of the cash box. However, there were no signs of a forced opening upon the locked metal cabinet. A Statement of Facts pertaining to the robbery, signed by Joseph E. Birdshead, Administrative Manager, indicates that the

loss could have been prevented had the cash box been placed in the

combination locked compartment of the locked metal cabinet rather than the

open shelf area of the cabinet secured by only a key-locked door. Since

there was a better repository available for the funds than the shelf in

the key-locked metal cabinet, the cashier was negligent in leaving it on

the shelf rather than in the combination locked compartment located in the

same cabinet, and his failure to place it in the combination locked compartment contributed to the disappearance of the cash box. Accordingly, we are unable to concur in the administrative recommendation that the Class "A" Cashier was free of fault or negligence. * * *"

In his request for reconsideration dated May 17, 1974, the Assistant Secretary--Management, Department of the Interior, indicates that attempts to collect the debt from Mr. Nuvamsa have been unsuccessful. Furthermore, although Mr. Nuvamsa was bonded, the insurance company has disclaimed liability under its fidelity bond stating that "It does not appear that there has been a dishonesty or otherwise breach of trust on the part of Mr. Nuvamsa, and therefore, the captioned claim is not intended for coverage under the bond."

Also, the Deputy Assistant Secretary, Department of the Interior, on behalf of the Bureau of Indian Affairs, submitted a letter dated April 14, 1972, to the Claims Division of this Office declaring the account uncollectable. The Claims Division has not been able to effectuate collection, has ceased further action, and has closed the file on the case.

The letter of May 17, 1974, states that the following factors prompted the request for reconsideration at this time:

"1. The Department of the Treasury's Denver Disbursing Center Disbursing Officer's accounts are charged with an unrecovered disbursement because of nonrecoupment of the Bureau of Indian Affairs cashier loss of $235.13. This amount cannot be cleared except by granting of relief. Failing that, it would necessitate a private relief bill, as all other remedies would have been exhausted.

"2. Further additional administrative costs involved in the development, preparation and presentation of a private relief bill, even if favorably

considered by the Congress, would not be in best interest of the Government.

"3. Recurring administrative costs by maintaining the account in its present status will continue indefinitely as the Department of Justice's regulations do not permit court action on amounts less than $400."

Consequently, relief is requested since--

"The continuance of this case as an open item in the accounts of the Department of the Treasury and the Bureau of Indian Affairs has and continues to result in administrative costs far beyond the monetary amount of the loss. It appears that unless we are granted relief in this case, the loss could remain outstanding for an indifinite period of time, depending on the submission of a private relief bill and favorable Congressional action thereon."

Relief of accountable officers is authorized under provisions of 31 U.S.C. Sec. 82a-1, only if:

(a) It is determined by the head of the department or independent establishment concerned--

(1) that loss or deficiency occurred while such officer or agent was acting in the discharge of his official duties, or that such loss or deficiency occurred by reason of the act or omission of a subordinate of such officer or agent; and

(2) that such loss or deficiency occurred without fault or negligence on the part of such officer or agent.

(b) Such determinations are concurred in by the General Accounting Office.

Thus factors such as whether a claim is collectibe or the cost of carrying an uncollectible claim as a loss on the disbursing officer's account are not to be considered when making the determinations required by 31 U.S.C. Sec. 82a-1, and consequently, cannot serve as a basis for granting

accountable officers relief of liability for loss.

Therefore, and since no new evidence is offered from which we may determine that Mr. Nuvamsa was free from fault or negligence, we cannot concur in the request under 31 U.S.C. Sec. 82a-1.

However, regarding restoration of the ourtstanding loss charged to the disbursing officer's account maintained by the Department of the Treasury, we note that 31 U.S.C. Sec. 1202 (Supp. III, 1973) provides as follows:

"Sec. 1202. Restorations and adjustments of accounts of accountable officers and agents for losses to United States; regulations.

"(a) Whenever--

"(1) it is necessary to restore or otherwise adjust the account of any accountable officer or his agent for any loss to the United States due to the fault or negligence of such officer or agent, and

"(2) the head of the agency of the Federal Government concerned determines that the amount of the loss is uncollectable,

such amount shall be charged to the appropriation or fund available for the expenses of the accountable function at the time the restoration or adjustment is made. Such restoration or adjustment shall not affect the personal financial liability of such officer or agent on account of such loss.

"(b) The restoration and adjustments provided for by subsection (a) of this section shall be made in accordance with regulations which the Comptroller General of the United States shall prescribe and issue."

Since it has been administratively determined that the indebtedness of Mr. Nuvamsa to the United States is uncollectible, and the loss was due to his negligence, such account may be adjusted by you in the manner prescribed in 31 U.S.C. Sec. 1202(a). It should be noted that such adjustment does not affect the personal financial liability of Mr. Nuvamsa.

Sincerely yours,

Paul G. Dembling

General Counsel