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B-182480 February 3, 1975

Number: B-182480

Date: 1975-02-03

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The Honorable The Secretary of the Interior

Dear Mr. Secretary:

The Deputy Assistant Secretary - Management, Department of the Interior, by letter dated September 12, 1974, requested relief be granted to Sonja Keenar, Class A Cashier at the Cheyenne River Agency, Bureau of Indian Affairs under the provisions of 31 U.S.C. Sec. 82a-1 (1970). He advised that a theft of imprest funds in the custody of Ms. Keener occurred on or about July 20, 1972, while she was on annual leave. The shortage consisted of $395.87 in cash and United States Treasury Check No. $30,398,772 dated June 29, 1972, drawn over Symbol 3131, in the amount of $785.36. Stop payment was placed on the check, and the Treasury Department reimbursed 4785.36 to Ms. keener.

The imprest funds were contained in a cash box in a locked file cabinet in the cashier's office, and the keys to the cabinet were kept in Ms. Keener's desk. The cash box with the funds was taken. There was no evidence of breaking and entering the file cabinet.

At the time of the loss, an alternate cashier to Ms. Keener had not been appointed.

The Deputy Assistant Secretary found that the loss was not a result of bad faith or lack of due care, and was without fault or negligence on the part of the cashier. He recommended that she not be held liable for the loss.

We cannot concur in these conclusions and recommendation. We have held that an accountable officer is automatically liable at the moment either a physical loss occurs or an erroneous payment is made. See decision B- 161457, August 14, 1974, 54 Comp. Gen. 112. (Copy enclosed) Relief however is granted by this office absent a determination that the accountable officer was negligent or guilty of bad faith or lack of due care, and that such negligence, bad faith, or lack of due care was the proximate cause of the physical loss or erroneous payment. The burden of proving lack of fault is on the accountable officer.

In this case there is no evidence of forcible entry into the file cabinet where the cash box was kept. It therefore appears that the cabinet was unlocked with the key which was in Ms. Koener's desk which was located in the same room as the cabinet. Although an alternate cashier should have been appointed so that Ms. Keener could have entrusted the file cabinet key with does not relieve Ms. Keener of the responsibility for the safe- keeping of the key. The ready access

to the key contributed heavily to the theft as it apparently occurred. We therefore must conclude that Ms. Keener was not free of fault, and that her negligence was the proximate cause of the theft. Accordingly, the request for granting relief is denied.

Sincerely yours,

Paul G. Dembling General Counsel

Enclosure

cc: Chief Disbursing Officer, Treasury Department Director, FGMSD