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B-183559 August 28, 1975

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By letter of March 12, 1975, the Commandant, United States Coast Guard, requested that, in accordance with 31 U.S.C. Sec. 82a-1 (1970), relief be granted in the amount of $8,000 on behalf of an Alternate Cashier, Mrs. Caroline M. Babcock, Supervisory Accounting Technician, Department of Transportation, United States Cost Guard, for the loss hereinafter described which occurred in the discharge of her official duties.

The record further indicates that the loss was not the result of illegal or erroneous payments, and no evidence was developed to indicate fraud or collusion. Apparently, Mrs. Babcock forgot to spin the combination lock before leaving work on November 8. It was stated that the conditions under which Mrs. Babcock forgot to spin the combination occurred not only during a peak workload period, but also at a time when Mrs. Babcock had assumed the duties of alternate cashier as the result of the unexpected illness of the regular cashier. Mrs. Babcock is described as a loyal and dependable employee who has been a dedicated public servant for over 24 years.

Our Office, under the authority of 31 U.S.C. Sec 82a-1, supra, may relieve accountable officers of responsibility for physical loss or deficiency of Government funds only if the head of the department concerned determines (1) that such loss or deficiency occurred while the officer was acting in the discharge of his official duties, or the loss or deficiency occurred by reason of the act or omission of a subordinate; (2) that such loss or deficiency occurred without fault or negligence on the part of the officer; and (3) our Office concurs in such determinations after consideration of the pertinent findings. See Generally 54 Comp. Gen. 112 (1974).

The question, then, is whether the Alternate Cashier's failure to spin the combination constituted negligence or only a non-negligent "lapse," as contended by the Commandant of the Coast Guard, and if negligence, whether it was the proximate cause of the loss. We believe that a reasonably prudent person, even under the pressures of a heavy workload, would nevertheless take the time to spin the combination and lock the safe. The fact that this was not her primary duty does not excuse her failure to take this very elementary precaution. Therefore, we cannot concur with the findings of the agency that there is reasonable doubt that the accountable officer was neligent. Furthermore, the record indicates no basis for us to conclude that the failure to lock the safe was not the proximate cause of the loss. Thus, it is our view that the relief requested for the Alternate Cashier must be denied.

Sincerely yours,

Paul G. Dembling General Counsel