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B-184028 October 24, 1975

Number: B-184028

Date: 1975-10-24

B-184028 October 24, 1975

The Honorable The Secretary of Agriculture

Dear Mr. Secretary:

Reference is made to the letter dated Nay 16, 1975, signed by Mr. Richard E. Ballard for Mr. William E. McElhanon, Director, Office of Economic Management Support Center, Department of Agriculture, requesting that relief be granted in the amount of $1,675.09 on behalf of Mr. William C. Albert, Class "B" Cashier, Economic Management Support Center, Washington, D.C., to cover a shortage in his imprest fund account. The request was forwarded to our Office by letter dated May 22, 1976 [sic], from Miss A. M. Ohanian, Deputy Chief Disbursing Officer, Bureau of Government Financial Operations, Department of the Treasury, Fiscal Service.

Mr. Ballard states in his letter of May 16, 1975, that it has been administratively determined that there was no fault or negligence on the part of the employee and requests that this Office grant relief, apparent by pursuant to 31 U.S.C. Sec. 82a-1.

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. (Underscoring supplied).

Thus the head of a department, in this case the Secretary of Agriculture, is required to make two distinct determinations, in of which we must be able to concur, before the requested relief may be granted.

There is nothing to indicate that the determinations made were made by the Secretary of Agriculture as the statute requires. The request was Submitted by

the Director, Office of Management Services, Economic Support Center, Department of Agriculture, and we are unaware of authority for such official to make the determinations required by low and to submit them to this Office for concurrence. In this regard we note that 7 AR Sec. 1059, requires that: "All requests for relief are be prepared for signature in the Office of the Secretary. * * *"

Also, we note that the May 16, 1975, letter indicates that Mr. Albert, the cashier, discovered the safe unlocked and cash boxes missing on the beginning of business on Monday, July 8, 1974. It also indicates that Mrs. Bates, the alternate cashier, could not recall whether she locked the safe on Friday, July 5, 1974. However, it is unclear whether both Mr. Albert and Mrs. Bates or just Mrs. Bates were present at work and possessed access to the safe on Friday, July 5, 1974

Also, if Mr. Albert was present, by whose authority was Mrs. Bates, rather than Mr. Albert responsible for locking the safe? Finally, was there any; evidence of forced entry into the room where the safe was kept?

Therefore, since the requisite determinations have not been made by the official required by the statute to make such determinations, and in any case, since sufficient evidence has not been submitted to substantiate the determinations made, we are returning the submission to you for further action.

Sincerely yours,

Paul G. Dembling, General Counsel