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B-189658 September 20, 1977

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Mr. Guy W. Chamberlin, Jr. Acting Assistant Secretary for Administration Department of Commerce Washington, D.C. 20230

Dear Mr. Chamberlin:

Your letter dated April 27, 1977, requests that Principal Class "B" Cashier Dorothy A. Dague, an employee of the National Marine Fisheries Service (NMFS), Northwest and Alaska fisheries Center in Seattle, Washington, be relieved from liability for an $879.80 shortage in her account.

The information forwarded to us indicates that the shortage of $879.80 occurred in a National Oceanic and Atmospheric Administration (NOAA) imprest fund held by Patricia Terao, Subcashier to Ms. Dague. Ms. Terao locked the office safe at about 3:45 p.m. on Wednesday, November 3, 1976, with the locked cash box inside the safe. The following morning, the Director of the Northwest Administrative Services Office was notified by the Seattle police that they were in possession of a cash box belonging to the NMFS, traced through papers contained therein to Ms. Terao. At about 8:30 a.m. that morning, in response to a telephone call, Ms. Terao checked the safe, which was locked and appeared normal. Upon opening the safe, however, she discovered that the cash box containing the cash was missing.

The NOAA Seattle Field Finance Office, the FBI, the Secret Service and the Denver Disbursing Office were notified of the loss, in compliance with section 5, paragraph 1005 of the Manual of Procedures and Instructions for Cashiers issued by the Department of the Treasury. Investigations of the Seattle police and the FBI revealed no suspects and developed no information that would implicate The Cashier or the subcashier in connection with the theft. Their investigations are considered closed.

Section 82a-1 of title 31, United States Code (1970), under which relief has been requested, provides in pertinent part as follows:

"The General Accounting Office is authorized, after consideration of the pertinent findings and if in concurrence with the determinations and recommendations of the head of the department or independent establishment concerned, to relieve any disbursing or other accountable officer or agent or former disbursing or other accountable officer or agent of any such department or independent establishment of the Government charged with responsibility on account of physical lose or deficiency of Government funds, vouchers, records, checks, securities, or papers in his charge * * * if the head of the department or independent establishment determines (1) that such loss or deficiency while

such or officer or agent was acting in 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 * * *"

A physical loss of funds standing alone, la sufficient to raise a presumption of negligence. We have consistently held, however, that this presumption is rebutted by a finding that negligence on the part of the person for whom relief is sought is not the proximate cause of the loss. See, e.g., B-183284, June 17, 1975.

The information furnished to us indicates that this lose occurred while Ms. Dague was acting in the discharge of her official duties, but as a result of theft. The loss occurred without fault or negligence on her part. While there was no evidence of forced entry into the safe. It appears from the record that the safe was not rated for burglary protection and could have been opened fairly easily by manipulating the combination. Thus we are satisfied that Ms. Dague and Ms. Terao did all they could to secure the imprest fund.

In view of the foregoing, we concur in your determinations under 31 U.S.C. Sec. 82a-1 and grant relief to Ms. Dague.

Sincerely yours,

Paul B. Dembling General Counsel