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B-191722, Aug 7, 1978

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B-191722, AUG 7, 1978

PAUL H. TAYLOR, DEPARTMENT OF THE TREASURY:

WE REFER TO YOUR LETTER OF APRIL 13, 1978, REQUESTING THAT WE PROVIDE RELIEF UNDER 31 U.S.C. SEC. 82A-1 (1970) FOR UNRECOVERED LOSSES TO ACCOUNTABLE OFFICERS MESSRS. NORMAN E. MORRILL ($819.89) AND FRANCIS L. BROWITT ($7,685.69), (FORMER DIRECTORS OF THE ANDOVER SERVICE CENTER), AND EARL L. TORGERSON ($13,276.73) AND HENRY P. SEUFERT ($7,660.18), FORMER DIRECTORS OF THE BROOKHAVEN SERVICE CENTER.

THE ORIGINAL LOSS TOTALING $45,386.00 WAS OCCASIONED BY THE MISAPPROPRIATION OF FUNDS FROM 1969 THROUGH APRIL 1974 BY MR. ARTHUR P. HASCUP, A FORMER ASSISTANT CHIEF, OFFICE BRANCH OF THE BROOKLYN DISTRICT OFFICE, INTERNAL REVENUE SERVICE (IRS). THIS AMOUNT WAS REDUCED BY RESTITUTION FROM AVAILABLE PROPERTY, SALARIES, LEAVE PAY, RETIREMENT PAY AND TAX REFUNDS OF $16,003.51 AND THE REPAYMENTS WERE CREDITED TO EACH DIRECTOR IN THE SAME PROPORTION AS HIS LOSS WAS TO THE TOTAL LOSS. REQUEST IS MADE FOR RELIEF OF THE UNRECOVERED BALANCE OF $29,382.49 REMAINING.

THE RECORD SHOWS THAT THE PECULATIONS OF MR. HASCUP OCCURRED DURING THE PERIOD OF 1969 THROUGH 1972 WHILE THE BROOKLYN DISTRICT WAS SERVICED BY THE ANDOVER SERVICE CENTER (ANSC) WHILE DIRECTORS MORRILL AND BROWITT WERE THE ACCOUNTABLE OFFICERS. DURING 1973 AND 1974 WHILE THE BROOKHAVEN SERVICE CENTER (BSC) SERVICED THE BROOKLYN AREA, DIRECTORS TORGERSON AND SEUFERT BECAME ACCOUNTABLE OFFICERS CHARGED WITH THE LOSSES. RELIEF IS REQUESTED FOR EACH DIRECTOR IN ACCORDANCE WITH THE NET LOSSES COMPUTED WHILE HE WAS THE ACCOUNTABLE OFFICER SERVICING THE BROOKLYN DISTRICT.

ACCORDING TO A "MEMORANDUM FOR REVIEWERS" CONTAINED IN THE FILE, DURING THE PERIOD IN ISSUE, MR. HASCUP, WHILE A REVENUE OFFICER WORKING INDEPENDENTLY IN THE FIELD HAD MANY OPPORTUNITIES TO COLLECT CASH, CHECKS OR MONEY ORDERS FROM TAXPAYERS AND DIVERT THE FUNDS TO HIS PERSONAL USE. ON OCCASION HE GAVE TAXPAYERS UNOFFICIAL RECEIPTS FOR CASH OR ALTERED CHECKS AND MONEY ORDERS OR WROTE THEM OFF AS UNCOLLECTIBLE. LATER, AS ASSISTANT CHIEF OFFICE BRANCH OF THE BROOKLYN DISTRICT OFFICE, HE HAD ACCESS TO MANY CHECKS, TAX DELINQUENCY ACCOUNTS (TDA'S), TAXPAYER DELINQUENCY INVESTIGATIONS (TDI), AND TAX LIENS FILED AGAINST TAXPAYERS, WITH THE AUTHORITY TO RELEASE SUCH LIENS, AND WAS IN A POSITION WHERE SUBORDINATES DID NOT QUESTION HIS ACTIONS.

MR. HASCUP'S PECULATIONS WERE FIRST REVEALED BY A BANK INVESTIGATOR WHO INFORMED THE BROOKLYN DISTRICT OFFICE OF AN ALTERED CHECK MADE PAYABLE TO THE FIRST NATIONAL BANK ON WHICH THE INTERNAL REVENUE SERVICE COULD BE DISTINGUISHED AS THE ORIGINAL PAYEE. UPON REQUEST OF DISTRICT OFFICIALS, THE INSPECTION DIVISION

OF IRS MADE AN IN-DEPTH INVESTIGATION OF MR. HASCUP'S ACTIVITIES.

THE PROVISIONS OF 31 U.S.C. SEC. 82A-1 AUTHORIZE OUR OFFICE TO RELIEVE ACCOUNTABLE OFFICERS OF RESPONSIBILITY FOR PHYSICAL LOSS OR DEFICIENCY OF GOVERNMENT FUNDS IF:

"*** THE HEAD OF THE DEPARTMENT OR INDEPENDENT ESTABLISHMENT DETERMINES: (1) THAT SUCH 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," AND OUR OFFICE CONCURS IN SUCH DETERMINATIONS.

YOU HAVE DETERMINED FROM THE RECORDS AVAILABLE THAT THE LOSSES APPLICABLE TO THE ACCOUNTS OF THE ACCOUNTABLE OFFICERS OCCURRED WHILE ACTING IN DISCHARGE OF THEIR OFFICIAL DUTIES THROUGH NO FAULT OR NEGLIGENCE ON THEIR PART AND DUE TO THE ACTS OF ONE OF THEIR SUBORDINATES AND YOU RECOMMEND THAT MESSRS. MORRILL, BROWITT, TORGERSON AND SEUFERT BE GRANTED RELIEF FOR THE AFOREMENTIONED LOSSES TOTALING $29,382.49 IN ACCORDANCE WITH THE PROVISIONS OF 31 U.S.C. SEC. 82A-1. YOU, AND OTHER APPROPRIATE MANAGEMENT OFFICIALS, HAVE CONCLUDED THAT REASONABLE PRECAUTIONS WERE IN EFFECT TO HELP PREVENT THE LOSS WHICH WOULD NOT HAVE OCCURRED EXCEPT FOR MR. HASCUP'S POSITION OF AUTHORITY. IN VIEW OF PROPOSED SUGGESTIONS CONTAINED IN THE INTERNAL AUDIT REPORT, CERTAIN ADDITIONAL INTERNAL CONTROLS AND MANAGEMENT PROCEDURES AND PRACTICES WERE ESTABLISHED TO AVOID SUCH LOSSES IN THE FUTURE.

WE HAVE REVIEWED THE INTERNAL AUDIT REPORT AND OTHER DOCUMENTATION YOU HAVE PROVIDED US. THE RECORD BEFORE US SUPPORTS YOUR RECOMMENDATION THAT THE FOUR SERVICE CENTER DIRECTORS SHOULD BE RELIEVED OF LIABILITY FOR THE AFOREMENTIONED SHORTAGES SINCE THE LOSS WAS OCCASIONED BY THE ACTS OF A SUBORDINATE AND WITHOUT FAULT OR NEGLIGENCE ON THEIR PART. ACCORDINGLY, WE CONCUR IN YOUR DETERMINATION AND UNDER THE PROVISIONS OF 31 U.S.C. SEC. 82A-1 (1970) GRANT RELIEF IN THE TOTAL AMOUNT OF $29,382.49 TO MESSRS. NORMAN E. MORRILL ($819.89), FRANCIS L. BROWITT ($7,685.69), EARL L. TORGERSON ($13,276.73) AND HENRY P. SEUFERT ($7,600.18). A CHARGE MAY BE MADE TO THE APPROPRIATE APPROPRIATION ACCOUNT.