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B-191781, Jun 30, 1978

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B-191781, JUN 30, 1978

PAUL H. TAYLOR - FISCAL SERVICE:

THIS IS IN REPLY TO YOUR REQUEST THAT RELIEF BE GRANTED UNDER 31 U.S.C. SEC. 82A-1 (1970) IN THE AMOUNT OF $44,059.93, ON BEHALF OF MR. LEONARD E. SEMRICK, FORMER DIRECTOR OF THE AUSTIN SERVICE CENTER, AUSTIN, TEXAS, INTERNAL REVENUE SERVICE (IRS), FOR A LOSS RESULTING FROM EMBEZZLEMENT OF MONEY ORDERS BY A FORMER EMPLOYEE.

THE INFORMATION SUBMITTED TO THIS OFFICE REVEALS THAT DURING THE PERIOD OCTOBER 1974 THROUGH JUNE 27, 1975, THE AGGREGATE SUM OF $50,221.76 OF GOVERNMENT FUNDS WAS EMBEZZLED BY A RUBY ALLEN HOLT, EMPLOYED AS A MAIL EXTRACTION CLERK AT THE IRS AUSTIN SERVICE CENTER. AN INVESTIGATION WAS CONDUCTED BY THE INTERNAL SECURITY DIVISION OF THE IRS AFTER TAXPAYERS COMPLAINED THAT THEY HAD SENT MONEY ORDERS TO IRS TO PAY THEIR TAX ACCOUNTS AND HAD NOT RECEIVED CREDIT FOR THE PAYMENTS. ON JUNE 27, 1975, THE EMPLOYEE WAS ARRESTED AFTER CASHING TWO FORGED MONEY ORDERS TOTALING $528.61. AS A RESULT OF THE INVESTIGATION, SOME CASH AND A NUMBER OF MONEY ORDERS WERE RECOVERED, WHICH, TOGETHER WITH THE SEIZURE OF MS. HOLT'S CIVIL SERVICE RETIREMENT FUNDS, TOTALED $6,161.83. THIS SUM WAS APPLIED TO REDUCE THE OUTSTANDING LOSS TO $44,059. 93.

IT HAS BEEN DETERMINED BY YOU, AS AUTHORIZED DESIGNEE OF THE HEAD OF THE DEPARTMENT, THAT THE LOSS OCCURRED WITHOUT FAULT OR NEGLIGENCE ON THE PART OF MR. LEONARD E. SEMRICK, THE FORMER SERVICE CENTER DIRECTOR, WHILE ACTING IN THE DISCHARGE OF HIS OFFICIAL DUTIES. YOU RECOMMEND THAT OUR OFFICE RELIEVE MR. SEMRICK OF LIABILITY OF THE MISSING FUNDS UNDER 31 U.S.C. SEC. 82A-1 (1970), WHICH 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 *** CHARGED WITH RESPONSIBILITY ON ACCOUNT OF PHYSICAL LOSS 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 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."

THE RECORD BEFORE US SUPPORTS YOUR RECOMMENDATION THAT MR. SEMRICK SHOULD BE

RELIEVED OF LIABILITY, FOR THE AFOREMENTIONED SHORTAGE. THE INVESTIGATION BY THE INTERNAL SECURITY DIVISION OF YOUR DEPARTMENT FOUND THAT THE LOSS RESULTED FROM THE EMBEZZLEMENT OF FUNDS BY MS. HOLT, WHO WAS SUBSEQUENTLY INDICTED BY A FEDERAL GRAND JURY IN THE WESTERN DISTRICT OF TEXAS ON 6 COUNTS OF ALTERING AND FORGING U.S. POSTAL MONEY ORDERS (18 U.S.C. SEC. 495) AND 2 COUNTS RELATING TO THE THEFT OF MAIL MATTER (18 U.S.C. SEC. 1708). MS. HOLT RESIGNED AS A MAIL CLERK ON FEBRUARY 20, 1976, AND ON THE SAME DAY WAS SENTENCED TO 2 YEARS IN FEDERAL PRISON WITH NO CONDITION FOR PAROLE.

WE NOTE THAT WHILE YOU AND OTHER APPROPRIATE MANAGEMENT OFFICIALS HAVE CONCLUDED THAT REASONABLE PRECAUTIONS WERE IN EFFECT TO HELP PREVENT THE LOSS, NEVERTHELESS, CERTAIN ADDITIONAL INTERNAL CONTROLS AND MANAGEMENT PROCEDURES AND PRACTICES WERE ESTABLISHED TO AVOID SUCH LOSSES IN THE FUTURE.

YOU HAVE DETERMINED THAT THE LOSS OCCURRED BY REASON OF THE ACTS OF ONE OF MR. SEMRICK'S SUBORDINATES AND WITHOUT FAULT OR NEGLIGENCE ON HIS PART. THERE IS NO EVIDENCE IN THE RECORD TO THE CONTRARY. ACCORDINGLY, WE CONCUR IN YOUR DETERMINATION AND GRANT RELIEF IN THE AMOUNT OF $44,059.93 TO MR. LEONARD E. SEMRICK UNDER THE PROVISIONS OF 31 U.S.C. SEC. 82A-1 (1970). A CHARGE MAY BE MADE TO THE APPROPRIATE APPROPRIATION ACCOUNT.