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B-191942, SEP 12, 1979

UNITED STATES GENERAL ACCOUNTING OFFICE:

MAX CLELAND, ADMINISTRATOR VETERANS ADMINISTRATION:

MR. CONRAD R. HOFFMAN, CONTROLLER, VETERANS ADMINISTRATION (VA), HAS REQUESTED RELIEF FROM LIABILITY ON BEHALF OF MRS. BETTY MCBRIDE, SUBCASHIER AT THE VA HOSPITAL IN NORTH CHICAGO, ILLINOIS, IN THE AMOUNT OF $1,100 RESULTING FROM A SHORTAGE IN THE ADVANCE OF THE FACILITY CLASS B CASHIER, MRS. ARLENE A. SWORD. FOR THE REASONS THAT FOLLOW, RELIEF IS GRANTED.

THE LOSS, DESCRIBED IN THE SUBMISSION AS A "BURGLARY," TOOK PLACE SOMETIME DURING THE PERIOD FROM SEPTEMBER 28 THROUGH OCTOBER 17, 1977. THE MONEY WAS IN A CASH BOX IN A SAFE LOCATED IN THE OFFICE OF THE FINANCE SECTION SUPERVISOR (BUILDING 3). THE LOSS WAS DISCOVERED AND REPORTED BY MRS. MCBRIDE ON THE MORNING OF OCTOBER 17, 1977, WHEN SHE OPENED THE SAFE AND DISCOVERED THE ENTIRE CASH BOX MISSING. THERE WAS NO SIGN OF FORCIBLE ENTRY INTO THE SAFE OR THE OFFICE IN WHICH IT WAS LOCATED. THE HOSPITAL POLICE WERE IMMEDIATELY NOTIFIED, INVESTIGATED THE LOSS, AND PREPARED A REPORT. THE FBI AND SECRET SERVICE WERE ALSO NOTIFIED AND THE FBI APPARENTLY ASSUMED RESPONSIBILITY FOR THE INVESTIGATION. ACCORDING TO RECENT INFORMAL INQUIRES WITH VA, NO FURTHER INVESTIGATION REPORTS HAVE BEEN SUBMITTED.

PRIOR TO DISCOVERING THE LOSS, MRS. MCBRIDE HAD LAST USED THE CASH BOX ON THE AFTERNOON OF SEPTEMBER 28, AT WHICH TIME SHE WAS ASSIGNED TO THE AGENT CASHIER'S OFFICE IN ANOTHER BUILDING (BUILDING 131), WHERE SHE WORKED UNTIL OCTOBER 17. SHE WORKED OVERTIME IN BUILDING 3 ON OCTOBER 12-15, BUT STATES THAT SHE DID NOT OPEN THE SAFE OR CHECK THE CASH BOX ON ANY OF THOSE DAYS. THE VA DETERMINED THAT THE LOSS OCCURRED WITHOUT FAULT OR NEGLIGENCE ON THE PART OF MRS. MCBRIDE "OR ANY OTHER ACCOUNTABLE EMPLOYEE."

THE GENERAL ACCOUNTING OFFICE IS AUTHORIZED TO GRANT RELIEF FROM LIABILITY TO AN ACCOUNTABLE OFFICER UPON ITS CONCURRENCE WITH DETERMINATIONS BY THE DEPARTMENT OR AGENCY HEAD THAT (1) THE LOSS OR DEFICIENCY OCCURRED WHILE THE OFFICER OR AGENT WAS ACTING IN THE DISCHARGE OF HIS OFFICIAL DUTIES, OR THAT IT OCCURRED BY REASON OF THE ACT OR OMISSION OF A SUBORDINATE OF THE OFFICER OR AGENT, AND (2) THE LOSS OR DEFICIENCY OCCURRED WITHOUT FAULT OR NEGLIGENCE ON THE PART OF THE OFFICER OR AGENT. 31 U.S.C. SEC. 82A-1 (1976).

GENERALLY, THE DISAPPEARANCE OF FUNDS WITHOUT EXPLANATION GIVES RISE TO A PRESUMPTION OF NEGLIGENCE ON THE PART OF THE ACCOUNTABLE OFFICER. COMP.GEN. 566 (1969). HOWEVER, WE HAVE RECOGNIZED ON A NUMBER OF OCCASIONS THAT THE

DISAPPEARANCE OF AN ENTIRE CASH BOX INDICATES THAT THE LOSS WAS PROBABLY DUE TO THEFT. SEE, E.G., B-189896, NOVEMBER 1, 1977. THE QUESTION IN SUCH A CASE BECOMES WHETHER THE THEFT CAN BE ATTRIBUTED IN ANY WAY TO FAULT OR NEGLIGENCE ON THE PART OF THE ACCOUNTABLE OFFICER.

IN CASES INVOLVING DISAPPEARANCE OF AN ENTIRE CASH BOX IN WHICH WE HAVE GRANTED RELIEF, THE RECORD HAS CONTAINED AN AFFIRMATIVE STATEMENT BY THE ACCOUNTABLE OFFICER THAT HE OR SHE PLACED THE CASH BOX IN THE SAFE AND LOCKED THE SAFE PRIOR TO THE LOSS. E.G., B-189896, SUPRA. THE REASONING IS THAT, IF THE MONEY WAS PLACED IN THE SAFE AND THE SAFE LOCKED, THEN THERE WAS NO NEGLIGENCE, AND IN THE ABSENCE OF EVIDENCE IN THE RECORD TO REBUT THE ACCOUNTABLE OFFICER'S STATEMENT, RELIEF SHOULD BE GRANTED. THE OTHER HAND, WE HAVE NOTED THAT THE BOX COULD HAVE BEEN NEGLIGENTLY LEFT OUT OF THE SAFE, IN WHICH CASE RELIEF SHOULD BE DENIED. IN THIS CASE, WE DO NOT HAVE A STATEMENT BY MRS. MCBRIDE THAT SHE DEFINITELY LOCKED THE SAFE ON THE AFTERNOON OF SEPTEMBER 28. THE CLOSEST THING WE HAVE IS A STATEMENT IN THE INVESTIGATION REPORT OF THE HOSPITAL POLICE THAT "MRS. MCBRIDE STATED SHE LAST OBSERVED THE MISSING CASH BOX IN THE SAFE SOMETIME ON THE AFTERNOON OF 9/28/77 *** AND DID NOT OPEN THE SAFE OR CHECK THE CASH BOX UNTIL APPROXIMATELY 9:45 AM 10/17/77 AND FOUND IT MISSING." THE ISSUE THUS BECOMES THE EFFECT, UNDER THE FACTS AND CIRCUMSTANCES OF THIS CASE, OF THE LACK OF AN AFFIRMATIVE STATEMENT BY MRS. MCBRIDE THAT SHE LOCKED THE SAFE.

AS NOTED ABOVE, THE SAFE WAS LOCATED IN THE OFFICE OF THE FINANCE SECTION SUPERVISOR. (ACCORDING TO VA, IT HAS SINCE BEEN MOVED TO MAKE IT LESS VISIBLE.) TWO CASH BOXES WERE KEPT IN THE SAFE. THE ONE ASSIGNED TO MRS. MCBRIDE WAS ON THE MIDDLE SECTION OF THE SAFE WHILE A SECOND CASH BOX, USED BY ALTERNATE AGENT CASHIER MRS. JOELLYN KNEPPER AND UNTOUCHED IN THE THEFT, WAS KEPT ON THE FLOOR OF THE SAFE. FOUR PERSONS HAD THE COMBINATION TO THE SAFE - MRS. MCBRIDE, MRS. KNEPPER, MRS. SWORD, AND MRS. MARGARET UNDERWOOD, AN ADDITIONAL ALTERNATE AGENT CASHIER. THE SAFE COMBINATION WAS CHANGED IN APRIL, 1977. THE RECORD DOES NOT INDICATE WHETHER A WRITTEN COPY OF THE COMBINATION WAS KEPT ON THE PREMISES. THUS, WE HAVE A SITUATION WHERE (1) MRS. MCBRIDE WAS NOT THE ONLY PERSON WORKING OUT OF THE SAFE FROM WHICH THE CASH BOX WAS TAKEN, AND (2) THE SAFE WOULD HAVE BEEN OPENED DAILY TO TRANSACT NORMAL BUSINESS DURING THE TWO WEEKS MRS. MCBRIDE WAS WORKING IN BUILDING 131. IN THESE CIRCUMSTANCES, EVEN IF THE SAFE WAS NOT LOCKED ON SEPTEMBER 28 - AND NOTHING IN THE RECORD INDICATES THAT IT WAS NOT - THIS WOULD NOT NECESSARILY HAVE BEEN THE PROXIMATE CAUSE OF THE LOSS. IN THIS CONTEXT, A STATEMENT BY MRS. MCBRIDE THAT SHE LOCKED THE SAFE ON SEPTEMBER 28 WOULD ADD LITTLE TO THE RECORD.

FURTHER, WE HAVE FREQUENTLY RELIEVED ACCOUNTABLE OFFICERS FROM LIABILITY FOR LOSSES WHERE A NUMBER OF PEOPLE HAD ACCESS TO THE FUNDS THROUGH KNOWLEDGE OF THE SAFE COMBINATION AND/OR PROTECTIVE FACILITIES DID NOT AFFORD ADEQUATE PROTECTION, AND WHERE, AS HERE, THE ADMINISTRATIVE OFFICE DETERMINED THAT THE LOSS OCCURRED WITHOUT FAULT OR NEGLIGENCE ON THE PART OF THE ACCOUNTABLE OFFICER.

IN SUM, VA HAS CONCLUDED THAT THE LOSS RESULTED FROM BURGLARY AND THAT THERE WAS NO FAULT OR NEGLIGENCE ON THE PART OF MRS. MCBRIDE. THERE IS NO EVIDENCE IN THE RECORD TO THE CONTRARY. ACCORDINGLY, WE CONCUR WITH VA'S DETERMINATION AND GRANT RELIEF TO MRS. MCBRIDE.

HOWEVER, IT IS NOT CLEAR FROM THE RECORD WHETHER ANY OTHER PERSON WAS ACCOUNTABLE FOR THE FUNDS DURING MRS. MCBRIDE'S TEMPORARY ABSENCE. NOT, THEN VA'S APPROPRIATION ACCOUNT MAY BE ADJUSTED AS REQUESTED. IF, ON THE OTHER HAND,

SOME OTHER INDIVIDUAL WAS ACCOUNTABLE FOR THE FUNDS DURING MRS. MCBRIDE'S ABSENCE, COLLECTION ACTION SHOULD BE TAKEN AGAINST THAT INDIVIDUAL UNLESS VA DECIDES TO REQUEST RELIEF FOR HIM OR HER ALSO. B-188662, DECEMBER 6, 1977. IF UNDER CURRENT VA PROCEDURES ACCOUNTABILITY IS NOT TRANSFERRED DURING A PERIOD OF LEAVE OR TEMPORARY DUTY ABSENCE, THEN WE SUGGEST THAT A CASH BOX WHICH WILL BE UNUSED DURING A TEMPORARY ABSENCE SHOULD BE STORED IN AN APPROPRIATELY SECURE FACILITY OTHER THAN A "WORKING" SAFE. FURTHER, WHENEVER IT IS NECESSARY FOR MORE THAN ONE PERSON TO HAVE ACCESS TO A SAFE, A SAFE WITH SEPARATE BUILT-IN LOCKING DRAWERS IS STRONGLY PREFERABLE TO ONE WITH READILY REMOVABLE CASH BOXES.