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B-192558, December 7, 1978

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B-192558, DECEMBER 7, 1978

MR. GERALD D. WALKER, DEPARTMENT OF THE AIR FORCE:

THIS IS IN RESPONSE TO YOUR LETTER TO OUR OFFICE (YOUR REFERENCE ACFRA) REQUESTING RELIEF FOR ACCOUNTING AND FINANCE OFFICER CAPTAIN SAMUEL C. SHOEMAKE, JR. AND CASHIER LUCIEN N. MERTES UNDER THE PROVISIONS OF 31 U.S.C. 82A-2 (1970) FOR LIABILITY FOR IMPROPER PAYMENTS MADE TO UNKNOWN INDIVIDUALS WHO APPARENTLY USED FRAUDULENTLY OBTAINED IDENTIFICATION CARDS.

THE RECORD BEFORE THIS OFFICE INDICATES THAT ON APRIL 26 AND APRIL 28, 1976, MR. MERTES, WORKING UNDER THE SUPERVISION OF CAPTAIN SHOEMAKE, PAID OUT $1,881.44 AND $1,600 RESPECTIVELY ON REENLISTMENT BONUS VOUCHERS TO INDIVIDUALS WHO FALSELY REPRESENTED THEMSELVES AS BEING SERGEANT JAMES L. FORD AND SERGEANT TERRANCE R. NEWHART.

IN SUMMARIZING THE INVESTIGATIVE REPORT, TL. COL. DAVID M. LEWIS, JR. THE ACTING STAFF JUDGE ADVOCATE, CONCLUDED THAT THE LOSS OF FUNDS WAS DUE TO ACTIONS OF HIGHLY SOPHISTICATED CRIMINALS, THE MATTER, WHICH HAD BEEN TURNED OVER TO THE FBI, RESULTED IN SEVERAL ACCOUNTING AND FINANCE OFFICERS APPEARING BEFORE A GRAND JURY IN SEPTEMBER, 1977. STEPS TO COLLECT OR RECOUP THE PAYMENTS HAVE NOT BEEN TAKEN SINCE THE PAYEES COULD NOT BE IDENTIFIED.

THE AIR FORCE AUDIT AGENCY OFFICE AT THE BEALE, CALIFORNIA AIR FORCE BASE UNDERTOOK AN AUDIT INVESTIGATION SUBSEQUENT TO NOTIFICATION ON MARCH 19, 1976, BY THE DEPUTY COMMANDER FOR RESOURCE MANAGEMENT THAT ACCOUNTING AND FINANCE PERSONNEL HAD DISCOVERED A NUMBER OF INSTANCES IN WHICH SEPARATION AND REENLISTMENT PAYMENTS APPEARED TO BE UNAUTHORIZED AND UNSUPPORTED. THE SUBSEQUENT AUDIT REPORT FOUND THAT BETWEEN NOVEMBER 26, 1975 AND MARCH 3, 1976, 10 UNSUPPORTED REENLISTMENT PAYMENTS, TOTALING $13,683.49 HAD BEEN MADE TO SIX PAYEES AND AN ADDITIONAL EIGHT SEPARATION PAYMENTS HAD EXCEEDED ENTITLEMENT BY $4,800.49. THE AUDIT REPORT CONCLUDED THAT CONTROLS OVER MILITARY PAY VOUCHERS WERE INEFFECTIVE TO PREVENT OR QUICKLY DETECT UNAUTHORIZED PAYMENTS AND THAT INSUFFICIENT GUIDANCE BY AIR FORCE DIRECTIVES WAS A SIGNIFICANT CONTRIBUTING FACTOR. THE RECORD FURTHER INDICATES THAT RECOMMENDATIONS MADE BY THE AIR FORCE AUDIT AGENCY OFFICE TO REMEDY THE PROBLEMS HAVE BEEN ADOPTED.

PURSUANT TO INFORMAL INQUIRY, IT WAS ASCERTAINED THAT IMMEDIATELY AFTER LEARNING OF THE IMPROPER PAYMENTS IN MARCH 1976, CAPTAIN SHOEMAKE TIGHTENED PROCEDURES IN THE ACCOUNTING AND FINANCE OFFICE BY LIMITING TO THREE THE NUMBER OF PEOPLE WHO COULD APPROVE REENLISTMENT VOUCHERS, BY SUPERVISING THE CASHIER'S WINDOW MORE CLOSELY AND BY MAKING A CHANGE IN PERSONNEL; THAT REENLISTMENT VOUCHERS WERE BOTH PREPARED AND APPROVED IN THE ACCOUNTING AND FINANCE OFFICE; THAT THE OFFICE

USED ONE REGULAR CASHIER (MR. MERTES) AND SEVERAL ALTERNATE LUNCH HOUR CASHIERS; THAT SOME TWELVE TO THIRTEEN HUNDRED PAYMENTS WERE MADE EACH MONTH AMONG WHICH WERE 30 TO 40 REENLISTMENT PAYMENTS; AND THAT IT WAS BELIEVED THAT THE MAJORITY OF IMPROPER PAYMENTS OTHER THAN THE ONES IN THIS REPORT WERE MADE BY ALTERNATE CASHIERS.

THE INVESTIGATIVE REPORT CONCLUDED THAT THE PROCEDURES UTILIZED BY THE ACCOUNTING AND FINANCE OFFICE MET OR EXCEEDED THE EXISTING AIR FORCE DIRECTIVES AND THAT FINANCE OFFICE MET OR EXCEEDED THE EXISTING AIR FORCE DIRECTIVES AND THAT NECESSARY STEPS HAD BEEN TAKEN TO REQUIRE SUFFICIENT IDENTIFICATION OF THE PAYEES. SPECIFICALLY, THE REPORT FOUND THAT MR. MERTES WAS CHECKING I.D. CARDS PRIOR TO MAKING PAYMENTS AND THAT HE DID NOT RECALL AN INSTANCE WHERE NO I.D. CARD WAS AVAILABLE OR WHERE THERE APPEARED A GROSS VARIATION BETWEEN THE PAYEE AND DESCRIPTION ON THE CARD.

UNDER THE PROVISIONS OF SECTION 1 OF THE ACT OF AUGUST 11, 1955, PUB. L. NO.84-365, 69 STAT. 687, 31 U.S.C. 82A-2, THE COMPTROLLER GENERAL OR HIS DESIGNEE, IN HIS DISCRETION, IS AUTHORIZED TO RELIEVE A DISBURSING OFFICER OF ACCOUNTABILITY AND RESPONSIBILITY AND ALLOW CREDIT IN HIS OFFICIAL DISBURSING ACCOUNTS FOR A DEFICIENCY IN CONSEQUENCE OF THE MAKING OF ANY ILLEGAL, IMPROPER OR INCORRECT PAYMENT. THAT AUTHORIZATION MAY BE EXERCISED ONLY WHEN THE COMPTROLLER GENERAL OR ANY OFFICER OF THE GENERAL ACCOUNTING OFFICE DESIGNATED BY THE COMPTROLLER GENERAL DETERMINES UPON HIS OWN MOTION OR UPON WRITTEN FINDINGS AND RECOMMENDATIONS MADE BY THE HEAD OF THE DEPARTMENT, AGENCY, OR INDEPENDENT ESTABLISHMENT CONCERNED, OR HIS DESIGNEE FOR THE PURPOSE, THAT SUCH PAYMENT WAS NOT THE RESULT OF LACK OF DUE CARE OR BAD FAITH ON THE PART OF THE DISBURSING OFFICER.

ALTHOUGH THE RECORD INDICATES THAT A NUMBER OF IMPROPER PAYMENTS HAD BEEN MADE IN THE OFFICE SUPERVISED BY CAPTAIN SHOEMAKE, IT APPEARS THAT SUCH PAYMENTS AS WELL AS THOSE INVOLVED IN THIS CASE WERE THE RESULT OF CRIMINAL ACTIVITIES, SUCH AS PROCURING FALSE IDENTIFICATION CARDS, OVER WHICH CAPTAIN SHOEMAKE AND MR. MERTES HAD NO CONTROL. AS SOON AS CAPTAIN SHOEMAKE BECAME AWARE OF THE PROBLEM, HE RESPONDED IMMEDIATELY BY TIGHTENING PROCEDURES IN THE ACCOUNTING AND FINANCE OFFICE. MR. MERTES' ACTIVITIES TOO, APPEAR TO HAVE BEEN IN FULL COMPLIANCE WITH THEN EXISTING DIRECTIVES AND NOTHING IN THE RECORD SUGGESTS THAT HE WAS NOT EXERCISING DUE CARE. ALTHOUGH FOLLOWING PROCEDURES WHICH ARE CLEARLY INSUFFICIENT MAY NOT ALWAYS SATISFY THE STANDARD OF DUE CARE, IN THIS INSTANCE, THE FACTS ARE SUFFICIENT TO WARRANT A CONCLUSION THAT THE LOSS WAS NOT THE RESULT OF BAD FAITH OR A LACK OF DUE CARE ON THEIR PART. THEREFORE, RELIEF MAY BE GRANTED UNDER 31 U.S.C. 82A-2.