Text as published on gao.gov, https://www.gao.gov/products/b-203726, archived 2026-07-12. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-203726, Jul 10, 1981, Office of General Counsel

Number: B-203726

Date: 1981-07-10

B-203726, JUL 10, 1981, OFFICE OF GENERAL COUNSEL

DIGEST: RELIEF GRANTED UNDER 31 U.S.C. SEC. 82A-1 TO CLASS B CASHIER AT AMERICAN EMBASSY IN ISLAMABAD, PAKISTAN, FOR PHYSICAL LOSS RESULTING FROM BURNING OF EMBASSY COMPOUND BY DEMONSTRATORS IN NOVEMBER 1979. LOSS CONSISTED OF PETTY CASH RECEIPTS AND CHECKS RECEIVED FROM ACCOMMODATION EXCHANGE TRANSACTIONS. SINCE FUNDS HAD BEEN SAFEGUARDED AS WELL AS EMERGENCY CIRCUMSTANCES PERMITTED, AND SINCE CHECKS HAD NOT BEEN RETAINED AT EMBASSY LONGER THAN PERIOD PRESCRIBED BY REGULATION, GAO CONCURS WITH STATE DEPARTMENT FINDING THAT THERE WAS NO CONTRIBUTING FAULT OR NEGLIGENCE BY CASHIER.

ALEXANDER M. HAIG, JR., SECRETARY OF STATE:

THIS IS IN RESPONSE TO A REQUEST FROM ELIZABETH A. GIBBONS, DIRECTOR, OFFICE OF FINANCIAL OPERATIONS, FOR THE RELIEF FROM LIABILITY OF EHSAN AHMED, CLASS B CASHIER AT THE AMERICAN EMBASSY IN ISLAMABAD, PAKISTAN, IN THE CIRCUMSTANCES DESCRIBED BELOW. FOR THE REASONS STATED, RELIEF IS GRANTED.

ON NOVEMBER 21, 1979, THE EMBASSY COMPOUND IN ISLAMABAD WAS BURNED BY DEMONSTRATORS AND EVACUATED. UPON THE RETURN OF EMBASSY PERSONNEL TO THE COMPOUND ON NOVEMBER 24, OFFICIALS HAD THE CASHIER'S SAFE CUT OPEN WITH AN ACETYLENE TORCH AND INVENTORIED THE CONTENTS. EXCEPT FOR A FEW NOTES IN A CASH BOX THAT WERE ONLY PARTIALLY BURNED AND THEREFORE STILL NEGOTIABLE, ALL OTHER RECORDS IN THE BUDGET AND MANAGEMENT OFFICE AND OTHER OFFICES IN THE COMPOUND WERE DESTROYED IN THE FIRE. THE TOTAL AMOUNT OF THE LOSS WAS $24,064.38, CONSISTING PRIMARILY OF CHECKS THE CASHIER HAD RECEIVED IN CONNECTION WITH AUTHORIZED ACCOMMODATION EXCHANGE TRANSACTIONS, PLUS A SMALL AMOUNT OF PETTY CASH RECEIPTS.

THE STATE DEPARTMENT'S COMMITTEE OF INQUIRY INTO FISCAL IRREGULARITIES RECOMMENDED THAT RELIEF BE SOUGHT FOR CASHIER AHMED, AND THIS REQUEST FOLLOWED. UNDER 31 U.S.C. SEC. 82A-1, THE GENERAL ACCOUNTING OFFICE IS AUTHORIZED TO RELIEVE AN ACCOUNTABLE OFFICER FROM LIABILITY FOR THE PHYSICAL LOSS OF FUNDS UPON CONCURRENCE WITH AGENCY DETERMINATIONS THAT THE LOSS OCCURRED WHILE THE ACCOUNTABLE OFFICER WAS ACTING IN THE DISCHARGE OF HIS OFFICIAL DUTIES AND THAT IT OCCURRED WITHOUT FAULT OR NEGLIGENCE ON HIS PART. WHILE THE RECORD DOES NOT INCLUDE THE DETERMINATION THAT THE LOSS OCCURRED WHILE MR. AHMED WAS ACTING IN THE DISCHARGE OF HIS OFFICIAL DUTIES, THE FACTS OF THE CASE MAKE IT CLEAR THAT THIS WAS THE DEPARTMENT'S CONCLUSION. SEE, E.G., B-195435, SEPTEMBER 12, 1979. THE DEPARTMENT HAS DETERMINED THAT THERE WAS NO FAULT OR NEGLIGENCE ON THE PART OF MR. AHMED.

A THRESHOLD QUESTION IS WHETHER THE UNITED STATES HAS ACTUALLY SUFFERED A LOSS

(EVEN THOUGH THE PARTICULAR AGENCY'S ACCOUNT MAY BE SHORT) WHEN FUNDS ARE TOTALLY DESTROYED BY FIRE SINCE THE FUNDS ARE NO LONGER AVAILABLE TO BE USED. THE SUPREME COURT ANSWERED THIS QUESTION IN THE AFFIRMATIVE IN A 1903 DECISION, REJECTING A CONTENTION THAT THE ACCOUNTABLE OFFICER'S LIABILITY SHOULD BE LIMITED TO THE COST OF PRINTING NEW NOTES. SMYTHE V. UNITED STATES, 188 U.S. 156, 173-174 (1903). THUS, THE DESTRUCTION OF FUNDS BY FIRE CONSTITUTES A PHYSICAL LOSS FOR WHICH THE ACCOUNTABLE OFFICER IS LIABLE UNLESS RELIEVED.

THEREFORE, THE QUESTION HERE BECOMES WHETHER THERE WAS ANY FAULT OR NEGLIGENCE ON THE PART OF MR. AHMED THAT MAY HAVE CONTRIBUTED TO THE LOSS, FOR EXAMPLE, LEAVING THE FUNDS MORE VULNERABLE TO DESTRUCTION BY FAILING TO SAFEGUARD THEM IN AVAILABLE FACILITIES. ACCORDING TO INFORMATION FURNISHED BY THE STATE DEPARTMENT AT OUR REQUEST, THE ACCOMMODATION EXCHANGE CHECKS HAD BEEN DELIVERED TO THE POUCH ROOM AT THE EMBASSY EARLIER ON THE DAY OF THE FIRE (NOVEMBER 21) FOR FORWARDING TO THE REGIONAL DISBURSING FACILITY IN BANGKOK, THAILAND. ALL CHECKS AND CASH IN THE POSSESSION OF CASHIER AHMED AT THE TIME OF THE LOSS HAD BEEN SECURED IN THE SAFE EXCEPT FOR A SMALL AMOUNT OF PETTY CASH RECEIPTS REPRESENTING THAT MORNING'S TRANSACTIONS. THE PETTY CASH RECEIPTS WERE FILED IN "DAILY WORKING FILES" ON THE COUNTER IN THE OFFICE AND COULD NOT BE FURTHER SECURED IN VIEW OF THE EMERGENCY NATURE OF THE EVACUATION.

THE RECORD INDICATES THAT THE BULK OF THE LOSS CONSISTED OF U. S. DOLLAR CHECKS REPRESENTING ACCOMMODATION EXCHANGE TRANSACTIONS FOR THE PRECEDING WEEK. THIS RAISES THE QUESTION OF WHETHER THE CHECKS HAD BEEN RETAINED AT THE EMBASSY LONGER THAN THEY SHOULD HAVE BEEN. RETENTION ON SITE LONGER THAN A PERIOD PRESCRIBED BY REGULATION WOULD BE NEGLIGENCE AND WOULD BE A PROXIMATE CAUSE OF THE LOSS SINCE THE ITEMS WOULD NOT OTHERWISE HAVE BEEN THERE TO BE BURNED. B-71445, JUNE 20, 1949. STATE DEPARTMENT REGULATIONS REQUIRE REMITTANCE OF U. S. DOLLAR CHECKS RECEIVED FROM ACCOMMODATION EXCHANGE TRANSACTIONS AT LEAST ONCE A WEEK. FOREIGN AFFAIRS MANUAL, VOLUME 4 (4 FAM), SECTIONS 394.2-4 AND 326.3-4. THUS CASHIER AHMED WAS NOT AT FAULT IN THIS RESPECT.

IN VIEW OF THE FOREGOING, WE HAVE NO REASON TO DISAGREE WITH THE STATE DEPARTMENT'S FINDING THAT THERE WAS NO CONTRIBUTING FAULT OR NEGLIGENCE ON THE PART OF CASHIER AHMED. THEREFORE, RELIEF IS GRANTED AND THE LOSS MAY BE CHARGED TO THE PROPER FISCAL YEAR 1981 APPROPRIATION IN ACCORDANCE WITH THE LAST SENTENCE OF 31 U.S.C. SEC. 82A-1.