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[Request for Reconsideration of Decision on Liability for Cash Loss]

Number: B-208888

Date: 1984-09-28

B-208888, SEP 28, 1984, OFFICE OF GENERAL COUNSEL

ACCOUNTABLE OFFICERS - RELIEF - OFFICIALS REQUIRING RELIEF DIGEST: CASHIER WHO TRANSFERS FUNDS TO ANOTHER CASHIER BEFORE THEY ARE LOST IS NOT ACCOUNTABLE AND NEED NOT BE RELIEVED. NEW INFORMATION SUBMITTED WITH REQUEST FOR RECONSIDERATION SHOWS THAT, CONTRARY TO OUR ORIGINAL CONCLUSION, THE COLLECTING CASHIER DID TRANSFER THE FUNDS AND THEREFORE WAS NOT THE LAST PERSON KNOWN TO POSSESS THE FUNDS BEFORE THEIR LOSS.

MR. CONRAD R. HOFFMAN ASSISTANT DEPUTY ADMINISTRATOR FOR BUDGET AND FINANCE VETERANS ADMINISTRATION

DEAR MR. HOFFMAN:

YOU HAVE REQUESTED THAT WE RECONSIDER OUR DECISION OF AUGUST 4, 1983, IN WHICH WE DEALT WITH YOUR EARLIER REQUEST THAT WE RELIEVE JEANNE HOWES, A FORMER ALTERNATE CASHIER AT THE VETERANS ADMINISTRATION MEDICAL CENTER, SALT LAKE CITY, UTAH, OF LIABILITY FOR A LOSS OF $1,139. IN OUR DECISION WE DETERMINED THAT NO RELIEF WAS REQUIRED FOR MS. HOWES BECAUSE SHE WAS NOT ACCOUNTABLE FOR THE FUNDS IN QUESTION. FURTHER, WE CONCLUDED THAT LOYOLA SAMORA, AN EMPLOYEE FOR WHOM YOU DID NOT REQUEST RELIEF, WAS ACCOUNTABLE FOR THE FUNDS AND SHOULD BE HELD LIABLE FOR THEIR LOSS. FOR THE REASONS INDICATED BELOW, AND BASED ON THE NEW INFORMATION YOU SUBMITTED WITH YOUR CURRENT REQUEST, WE NOW CONCLUDE THAT MS. HOWES RATHER THAN MS. SAMORA WAS ACCOUNTABLE FOR THE FUNDS AT THE TIME OF THEIR LOSS. THEREFORE, UNLESS YOU SEEK RELIEF FOR MS. HOWES, SHE SHOULD BE HELD LIABLE FOR THE LOSS.

ACCORDING TO THE FACTS PREVIOUSLY SUBMITTED, MS. HOWES, AN ALTERNATE AGENT CASHIER, HAD BEEN GIVEN FULL RESPONSIBILITY FOR THE CASHIER FUNCTION AT THE MEDICAL CENTER DURING A 3-WEEK PERIOD ENDING ON DECEMBER 10, 1979, DUE TO THE TEMPORARY ABSENCE OF THE PERMANENT CASHIER. THE JOB CONSISTED OF ISSUING RECEIPTS FOR FUNDS BELONGING TO HOSPITAL PATIENTS AND DISBURSING FUNDS FOR TRAVEL AND FOR THE PATIENTS. SHE RESIGNED FROM HER POSITION AS CASHIER ON DECEMBER 31, 1979, TO GO INTO BUSINESS WITH HER HUSBAND.

DUE TO A SHORTAGE OF STAFF, AN IMPREST FUND CASHIER, MS. SAMORA, HAD BEEN DIRECTED TO CARRY OUT THE FUNCTIONS OF AGENT CASHIER ALONG WITH MS. HOWES. ALTHOUGH MS. SAMORA WAS NOT TRAINED AS AN AGENT CASHIER, SHE WAS INSTRUCTED TO COLLECT AS WELL AS TO DISBURSE FUNDS.

ON JANUARY 14, 1980, A LOSS OF 20 FIELD SERVICE RECEIPTS WAS DISCOVERED DURING A FISCAL VALUE AUDIT. THIS LOSS DATED BACK TO THE PERIOD DURING WHICH MS. HOWES WAS CASHIER. AN INVESTIGATION BY THE FISCAL SERVICE FAILED TO PRODUCE EVIDENCE

ON THE MISSING FUNDS.

MS. SAMORA ACKNOWLEDGED THAT SHE HAD COLLECTED THE MISSING FUNDS, AND IN A WRITTEN STATEMENT, SHE ASSERTED THAT SHE TURNED OVER THE RECEIPTS AND CASH TO MS. HOWES. SHE ALSO STATED THAT MS. HOWES DID NOT ISSUE HER A RECEIPT FOR THE FUNDS. THE MEDICAL CENTER DIRECTOR SUBSTANTIATED THE ASSERTION THAT THERE WAS NEVER A PROCESS ESTABLISHED REQUIRING THE AGENT CASHIER TO GIVE A RECEIPT TO THE EMPLOYEE TURNING IN FUNDS.

IN OUR DECISION OF AUGUST 4, 1983, WE NOTED THAT YOU WERE UNABLE TO DETERMINE WHETHER THE ACTIONS OF MS. HOWES OR MS. SAMORA WERE THE PROXIMATE CAUSE OF THE LOSS. AS A CONSEQUENCE, YOU ASSERTED THAT THE LOSS OCCURRED WITHOUT NEGLIGENCE OR FAULT BY EITHER OFFICER. HOWEVER, WE CONCLUDED THAT: (1) MS. SAMORA'S CLAIM THAT SHE GAVE THE FUNDS TO MS. HOWES WAS UNSUBSTANTIATED BY ANY DOCUMENTARY EVIDENCE; AND (2) TREASURY REGULATIONS PROVIDED THAT MS. SAMORA SHOULD HAVE OBTAINED A RECEIPT UPON TRANSFERRING FUNDS TO THE AGENT CASHIER. HENCE, WE FOUND MS. SAMORA TO BE THE ACCOUNTABLE OFFICER FOR THESE FUNDS.

WITH YOUR REQUEST FOR RECONSIDERATION YOU INCLUDED THE STATEMENTS OF JAMES R. SMITH, ASSISTANT FINANCIAL MANAGER, WHO CONDUCTED THE AUDIT OF THE AGENT CASHIER, AND KAY L. RICHINS, ASSISTANT CHIEF, FISCAL. BOTH STATEMENTS ATTEST TO THE FACT THAT MS. SAMORA TRANSFERRED THE FUNDS IN QUESTION AND THAT MS. HOWES HAD INDICATED THAT SHE RECEIVED THESE FUNDS. THESE STATEMENTS SUGGEST THAT THE FUNDS AND RECEIPTS WERE PLACED BY MS. HOWES ON HER DESK, INADVERTENTLY KNOCKED INTO A TRASH CAN AND DISPOSED OF WITH THE DAY'S TRASH.

YOU FURTHER NOTE THAT THE FUNDS INVOLVED HERE WERE PATIENT FUNDS WHICH, UNDER VETERANS ADMINISTRATION PROCEDURE, REQUIRE THE ISSUANCE OF A FIELD SERVICE RECEIPT BY THE AGENT CASHIER ACCEPTING SUCH FUNDS. YOU INDICATE THAT MS. SAMORA PREPARED THESE RECEIPTS AND TRANSFERRED THE REMITTANCE TO THE AGENT CASHIER, AND CONCLUDED THAT SHE WAS NOT NEGLIGENT IN THE PERFORMANCE OF HER DUTIES AS AN ALTERNATE CASHIER AND SHOULD BE RELIEVED OF THE LOSS UNDER THE PROVISIONS OF 31 U.S.C. SEC. 3527.

THE ADDITIONAL STATEMENTS YOU HAVE SUBMITTED CORROBORATE MS. SAMORA'S CLAIM THAT SHE TRANSFERRED THE FUNDS IN QUESTION TO MS. HOWES. THEREFORE WE MUST ALTER OUR ORIGINAL CONCLUSION THAT MS. SAMORA RATHER THAN MS. HOWES WAS ACCOUNTABLE FOR THESE FUNDS. IT IS NOW CLEAR THAT MS. SAMORA DID NOT HAVE CUSTODY OF THE FUNDS AT THE TIME THEY WERE LOST. SHE IS THEREFORE NOT ACCOUNTABLE FOR THE FUNDS AND NEED NOT BE RELIEVED.

ON THE OTHER HAND, THE RECORD NOW INDICATES THAT MS. HOWES WAS THE LAST PERSON TO HAVE CUSTODY OF THE LOST FUNDS. SHE IS THEREFORE ACCOUNTABLE FOR THEM. IN YOUR ORIGINAL LETTER YOU ASKED THAT MS. HOWES BE RELIEVED, AS THE LOSS WAS NOT THE RESULT OF HER NEGLIGENCE. THE FACTS SUBMITTED WITH YOUR MORE RECENT REQUEST, HOWEVER, SEEM TO INDICATE THAT MS. HOWES' NEGLIGENCE DID CAUSE THE LOSS. WE THEREFORE SEE NO GROUNDS FOR RELIEVING MS. HOWES, UNLESS YOU RENEW YOUR REQUEST SHOWING WHY SHE SHOULD BE RELIEVED OF LIABILITY.