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B-211649, Aug 2, 1983, Office of General Counsel

Number: B-211649

Date: 1983-08-02

B-211649, AUG 2, 1983, OFFICE OF GENERAL COUNSEL

MR. CONRAD R. HOFFMAN, ASSISTANT DEPUTY ADMINISTRATOR FOR BUDGET AND FINANCE, OFFICE OF BUDGET AND FINANCE, VETERANS ADMINISTRATION:

THIS IS IN REPLY TO YOUR LETTER DATED APRIL 1, 1983 (FILE SYMBOL 047C1:1- 3), REQUESTING THIS OFFICE TO RELIEVE THREE CASHIERS AT THE VA OUTPATIENT CLINIC IN BOSTON OF LIABILITY FOR LOSSES TOTALLING $2,258.98. THESE FUNDS WERE ADVANCED BY MR. KENNETH VEIGA, A CLASS "B" CASHIER AT THE VA MEDICAL CENTER IN BOSTON, WHO, OF COURSE, NEVER HAD PHYSICAL CUSTODY OF THE FUNDS ONCE THEY WERE SENT TO THE MEDICAL CENTER. IT IS NOT NECESSARY TO REQUEST RELIEF FOR MR. VEIGA SINCE HE HAD TRANSFERRED CUSTODY OF THE FUNDS AT THE TIME OF ALL THREE LOSSES. WE HAVE CONCLUDED THAT THE FACTS IN THIS CASE WARRANT THE GRANTING OF RELIEF TO THE THREE CASHIERS AT THE OUTPATIENT CLINIC FROM LIABILITY FOR THEIR RESPECTIVE LOSSES, PURSUANT TO 31 U.S.C. SEC. 3527 (FORMERLY 31 U.S.C. SEC. 82A-1).

THE FACTS INVOLVE THREE INCIDENTS OF LOSS, ALL OCCURRING WITHIN A PERIOD OF APPROXIMATELY 2 MONTHS. ON AUGUST 28, 1979, MR. JOHN THOMPSON, AGENT CASHIER AT THE OUTPATIENT CLINIC, DISCOVERED A LOSS OF $500 WHEN HE BALANCED HIS DAILY RECEIPTS FOR THE DAY. AN INVESTIGATION WAS INITIATED BY THE GSA FEDERAL PROTECTIVE SERVICE OF THIS LOSS AND IT WAS IN PROGRESS WHEN THE TWO SUBSEQUENT LOSSES OCCURRED.

ON SEPTEMBER 21, 1979, MS. JEANNE KINSER, 3RD ALTERNATE CASHIER, OPENED THE SAFE TO REMOVE HER CASH BOX FOR THE DAY AND NOTICED THAT THE CASH BOX OF MR. ROBERT DALTON, 2ND ALTERNATE CASHIER, WAS MISSING. MR. DALTON WAS ON LEAVE AT THE TIME. THE MISSING CASH BOX WAS LATER DETERMINED TO HAVE CONTAINED $1,158.98.

AGAIN, ON OCTOBER 31, 1979, MS. KINSER OPENED THE SAFE TO GET HER CASH BOX AND DISCOVERED THAT A BOX CONTAINING $600 IN SUSAN B. ANTHONY SILVER DOLLARS WAS MISSING.

IN DECEMBER 1980, THE FEDERAL PROTECTIVE SERVICE TURNED THE FINDINGS OF ITS YEAR-LONG INVESTIGATION OVER TO THE UNITED STATES SECRET SERVICE. THE SECRET SERVICE CLOSED THE CASE ON JANUARY 27, 1981, FINDING INSUFFICIENT EVIDENCE TO FILE CRIMINAL CHARGES.

BASED ON THE RECORD, THE OFFICE FACILITIES AND PROCEDURES FOR SAFEGUARDING FUNDS IN THE CUSTODY OF CASHIERS AT THE OUTPATIENT CLINIC WERE EXTREMELY DEFICIENT. THESE DEFICIENCIES WERE SUMMARIZED IN YOUR LETTER AS FOLLOWS:

"INVESTIGATIONS REVEALED THAT MANAGEMENT WAS VERY LAX IN THE FOLLOWING:

"(1) KEY CONTROL TO CASHIER OFFICE

"(2) THE COMBINATION TO THE SAFE WAS COMMON KNOWLEDGE

"(3) INADEQUATE SAFE FOR SAFEKEEPING CASH

"(4) METAL FILE/UTILITY BOXES INSTEAD OF PROPER CASH BOXES FOR EACH CASHIER

"(5) CASH BOX KEYS WERE LEFT LOOSE IN THE SAFE

"(6) THE CASHIER'S SUPERVISOR HAD A KEY TO THE CASH BOX

"(7) THE ALARM SYSTEM DID NOT OPERATE PROPERLY AND WAS FREQUENTLY TURNED OFF

"(8) CONTRACT CLEANERS WHO WORKED AFTER HOURS HAD ACCESS TO THE CASHIER'S OFFICE

"(9) LACK OF PERSONNEL PLANNING."

ACCORDING TO YOUR LETTER, THESE DEFICIENCIES WERE CORRECTED AFTER THE LOSSES OCCURRED.

IT WAS ADMINISTRATIVELY DETERMINED BY THE DIRECTOR OF THE OUTPATIENT CLINIC THAT DUE TO THE IMPROPER PHYSICAL SECURITY PROVISIONS MADE AVAILABLE TO THE CASHIER OPERATION AND THE LACK OF PERSONNEL TRAINING, THE LOSSES INVOLVED NO FAULT OR NEGLIGENCE ON THE PART OF THE EMPLOYEES.

THE GAO IS AUTHORIZED BY 31 U.S.C. SEC. 3527 TO RELIEVE AN ACCOUNTABLE OFFICER FOR A PHYSICAL LOSS IF GAO CONCURS WITH ADMINISTRATIVE DETERMINATIONS THAT THE LOSS OCCURRED WHILE THE ACCOUNTABLE OFFICER WAS ACTING IN THE DISCHARGE OF HIS OFFICIAL DUTIES AND THAT THE LOSS OCCURRED WITHOUT FAULT OR NEGLIGENCE ON THE PART OF THE ACCOUNTABLE OFFICER.

GOVERNMENT OFFICIALS CHARGED WITH THE CUSTODY OF PUBLIC MONEY ARE EXPECTED TO EXERCISE THE HIGHEST DEGREE OF CARE AND ANY UNEXPLAINED LOSS OF MONEY AUTOMATICALLY RAISES A REBUTTABLE PRESUMPTION OF NEGLIGENCE. COMP.GEN. 566 (1969). HOWEVER, WE HAVE, ON OCCASION, ACCEPTED IN REBUTTAL EVIDENCE OF FAULTY SECURITY MEASURES NOT ATTRIBUTABLE TO THE ACCOUNTABLE OFFICER HIM OR HERSELF, WHICH WAS SO EXTENSIVE AS TO CONSTITUTE THE LIKELY PROXIMATE CAUSE OF THE UNEXPLAINED LOSSES. B-182386, APRIL 24, 1975.

IT IS CLEAR THAT THE PROCEDURES AND FACILITIES AT THE OUTPATIENT CLINIC DID NOT CONFORM TO STANDARDS ESTABLISHED IN THE TREASURY DEPARTMENT'S MANUAL OF PROCEDURES AND INSTRUCTIONS FOR CASHIERS, 1976 EDITION. THE MANUAL PROVIDES THAT CASH SHOULD BE UNDER THE EXCLUSIVE CONTROL OF THE CASHIER AND PROCEDURES TO ACHIEVE THIS END ARE CLEARLY DESCRIBED. CASHIERS AT THE OUTPATIENT CLINIC WERE NOT PROVIDED WITH FACILITIES OR PROCEDURES THAT ALLOWED THEM TO MAINTAIN EXCLUSIVE CONTROL. THIS IN ITSELF PRECLUDES DEFINITE PLACEMENT OF RESPONSIBILITY FOR THE LOSSES.

THUS, WE CONCUR WITH THE ADMINISTRATIVE DETERMINATION AND GRANT RELIEF FROM LIABILITY FOR THE LOSSES TO MR. THOMPSON, MR. DALTON AND MS. KINSER. A CHARGE MAY BE MADE TO THE PROPER APPROPRIATION.