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B-211763, Jul 8, 1983, Office of General Counsel

Number: B-211763

Date: 1983-07-08

B-211763, JUL 8, 1983, OFFICE OF GENERAL COUNSEL

DIGEST: RELIEF GRANTED TO A PRIMARY CASHIER FOR THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION, UNDER 31 U.S.C. SEC. 3527 (FORMERLY 31 U.S.C. SEC. 82A-1) IN THE AMOUNT OF $776.54 FOR THE LOSS OF SUBVOUCHERS. EVIDENCE INDICATES THAT ANOTHER EMBEZZLED THE SUBVOUCHERS, WITHOUT FAULT OR NEGLIGENCE ON THE PART OF THE PRIMARY CASHIER.

MR. LEROY BOUCHER, DIRECTOR OF FINANCE, GENERAL SERVICES ADMINISTRATION:

THIS IS IN RESPONSE TO YOUR REQUEST THAT WE RELIEVE MS. SUZANNE L. MCHUGH, AN IMPREST FUND CASHIER FOR THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION, WASHINGTON, D.C., FROM LIABILITY FOR MISSING FUNDS IN HER CASH ADVANCE ACCOUNT IN THE AMOUNT OF $776.54. FOR THE REASONS STATED BELOW, WE GRANT THE REQUESTED RELIEF.

ACCORDING TO THE INFORMATION PRESENTED, ON SEPTEMBER 3, 1980, MS. MCHUGH WAS IN THE PROCESS OF PREPARING A REPLENISHMENT VOUCHER FOR AUGUST EXPENDITURES. IT WAS THEN THAT SHE DISCOVERED THAT THERE WERE NO FUNDS LEFT IN HER CASH ADVANCE ACCOUNT AND THE FOLDER CONTAINING SUBVOUCHERS FOR THE IMPREST FUND UNDER HER CONTROL, WHICH MIGHT HAVE ACCOUNTED FOR SOME OR ALL OF THE MISSING FUNDS, WAS GONE. A SUBSEQUENT INVESTIGATION BY THE UNITED STATES SECRET SERVICE INDICATED THAT AN ASSISTANT CASHIER WITH ACCESS TO THE FUND IS SUSPECTED OF EMBEZZLEMENT AND MAY WELL HAVE STOLEN THE SUBVOUCHERS TO PREVENT DISCOVERY. THE SUSPECT IS NOW INCARCERATED AFTER PLEADING GUILTY TO EMBEZZLEMENT IN A SIMILAR CASE. THE SECRET SERVICE INVESTIGATION DISCLOSED NO EVIDENCE OF WRONGDOING ON THE PART OF MS. MCHUGH.

YOU HAVE REQUESTED RELIEF FOR MS. MCHUGH UNDER 31 U.S.C. SEC. 3527(A) (1982) (FORMERLY 31 U.S.C. SEC. 82A-1). THIS PROVISION AUTHORIZES THE COMPTROLLER GENERAL TO RELIEVE AN ACCOUNTABLE OFFICER OF LIABILITY FOR A PHYSICAL LOSS OR DEFICIENCY WHERE THE HEAD OF THE AGENCY DETERMINES THAT (1) THE LOSS OR DEFICIENCY OCCURRED WHILE THE OFFICER WAS ACTING IN THE DISCHARGE OF OFFICIAL DUTIES; AND, (2) THE LOSS OR DEFICIENCY OCCURRED WITHOUT FAULT OR NEGLIGENCE ON THE PART OF THE OFFICER. THIS OFFICE MUST ALSO AGREE WITH THE AGENCY DETERMINATION. LOSSES DUE TO THEFT OR EMBEZZLEMENT BY OTHER FINANCIAL PERSONNEL ARE TREATED AS PHYSICAL LOSSES, AND RELIEF WILL BE GRANTED IF THE STATUTORY CONDITIONS ARE MET. B-191781, JUNE 30, 1978.

IN THIS CASE, THE REQUISITE FINDINGS HAVE BEEN MADE THAT MS. MCHUGH WAS NOT NEGLIGENT AND THAT SHE WAS ACTING IN THE DISCHARGE OF HER OFFICIAL DUTIES. THE SECRET SERVICE INVESTIGATION DISCLOSED CONCRETE EVIDENCE THAT THE ASSISTANT CASHIER IS PROBABLY RESPONSIBLE FOR THE MISSING FUNDS AND SUBVOUCHERS. THERE IS

NO EVIDENCE IMPLICATING MS. MCHUGH IN THE EMBEZZLEMENT, NOR IS THERE EVIDENCE THAT MS. MCHUGH WAS AT FAULT OR NEGLIGENT. WE, THEREFORE, AGREE WITH THE AGENCY DETERMINATION AND GRANT RELIEF TO MS. MCHUGH.