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B-212336, Aug 8, 1983, Office of General Counsel

Number: B-212336

Date: 1983-08-08

B-212336, AUG 8, 1983, OFFICE OF GENERAL COUNSEL

MR. CLYDE E. JEFFCOAT, PRINCIPAL DEPUTY COMMANDER:

THIS REPLIES TO A REQUEST FROM YOUR OFFICE THAT RELIEF BE GRANTED UNDER 31 U.S.C. SEC. 3527(C), FOR THE ERRONEOUS PAYMENT OF $200, CHARGEABLE TO THE ACCOUNT OF LIEUTENANT COLONEL (LTC) K. T. KINCAID, FINANCE CORPS, SYMBOL NUMBER 6339, FINANCE AND ACCOUNTING OFFICER, UNITED STATES ARMY ARMOR CENTER AND FORT KNOX, FORT KNOX, KENTUCKY. FOR THE REASONS DISCUSSED BELOW, THE REQUESTED RELIEF IS GRANTED.

THE IMPROPER PAYMENT RESULTED FROM AN ERROR IN THE ASSIGNMENT OF AN ORGANIZATION CODE TO A VOLUNTARY CHILD SUPPORT ALLOTMENT. IN MAY, 1981, MR. JOSEPH D. NEMETZ AUTHORIZED A VOLUNTARY CHILD SUPPORT ALLOTMENT IN THE AMOUNT OF $175 TO BE SENT TO ANTONIA NEMETZ. FOR PAYROLL PROCESSING PURPOSES, THE ORGANIZATION CODE OF "CO1" WAS ASSIGNED TO THIS ALLOTMENT. ON OCTOBER 20, 1981, MR. LONNIE E. AUSTIN, JR. AUTHORIZED A VOLUNTARY CHILD SUPPORT ALLOTMENT IN THE AMOUNT OF $200 TO BE SENT TO LINDA AUSTIN. THIS ALLOTMENT WAS ALSO ASSIGNED, APPARENTLY BY MISTAKE, THE ORGANIZATION CODE "CO1." AS A RESULT OF THIS ERROR, THE $200 ALLOTMENT WITHHELD FROM MR. AUSTIN'S CHECK WAS MADE PAYABLE TO ANTONIA NEMETZ. THIS INCORRECT CHANGE OF ALLOTMENT WAS PROCESSED BY THE PAYROLL CLERK AND AUDITED BY THE CONTROL CLERK. AN ALLOTMENT CHECK, ISSUED NOVEMBER 6, 1981, IN THE AMOUNT OF $200 WAS MAILED TO AND CASHED BY MS. NEMETZ. SINCE MR. NEMETZ HAD RESIGNED HIS EMPLOYMENT ON OCTOBER 25, 1981, MS. NEMETZ WAS NOT ENTITLED TO AN ALLOTMENT CHECK IN ANY AMOUNT AFTER THE ONE PROPERLY MAILED TO HER ON OCTOBER 23, 1981. EFFORTS TO COLLECT THE $200 IMPROPER PAYMENT WERE UNSUCCESSFUL, AND THE LOSS OF FUNDS WAS REFLECTED IN THE STATEMENT OF ACCOUNTABILITY SUBMITTED BY LTC KINCAID FOR MARCH 1982.

A DISBURSING OFFICER SUCH AS LTC KINCAID IS LIABLE FOR ERRONEOUS PAYMENTS MADE UNDER HIS SUPERVISION. THE COMPTROLLER GENERAL IS AUTHORIZED TO GRANT RELIEF UPON A SHOWING THAT THE IMPROPER PAYMENT WAS NOT THE RESULT OF BAD FAITH OR LACK OF DUE CARE ON THE PART OF THE DISBURSING OFFICER. 31 U.S.C. SEC. 3527(C) (1982). THE QUESTION IS WHETHER THE SUPERVISION PROVIDED BY LTC KINCAID REFLECTS REASONABLE CARE ON HIS PART.

WE AGREE WITH YOUR ASSESSMENT THAT THE IMPROPER PAYMENT TO MS. NEMETZ WAS NOT THE PROXIMATE RESULT OF BAD FAITH OR LACK OF DUE CARE ON THE PART OF LTC KINCAID. THE MISCODING OF A VOLUNTARY CHILD SUPPORT ALLOTMENT APPEARS TO BE THE TYPE OF CLERICAL ERROR WHICH WILL OCCASIONALLY OCCUR, UNNOTICED, IN EVEN A WELL-SUPERVISED OFFICE. A DISBURSING OFFICER IN A LARGE OFFICE CANNOT BE EXPECTED TO INSPECT PERSONALLY EACH ITEM WHICH IS PROCESSED BY SUBORDINATES IN THE OFFICE, NOR CAN HE DESIGN A SYSTEM WHICH ELIMINATES RELIABLY EVERY CLERICAL

ERROR WHICH MAY OCCUR. SEE, E.G., B-195106, JULY 12, 1979. WHILE THE RECORD IS QUITE SPARSE ON THIS POINT, THERE IS NO EVIDENCE THAT LTC KINCAID FAILED TO FOLLOW ESTABLISHED OFFICE PROCEDURES OR TO PROVIDE ADEQUATE SUPERVISION TO HIS SUBORDINATES. ACCORDINGLY, RELIEF IS GRANTED TO THE DISBURSING OFFICER, LTC K. T. KINCAID, AS REQUESTED, UNDER 31 U.S.C. SEC. 3527(C).

WE NOTE THAT COLLECTION ACTION WAS ATTEMPTED AGAINST MS. ANTONIA NEMETZ AND, ACCORDING TO YOUR LETTER, YOUR EFFORTS ARE CONTINUING. BASED ON YOUR STATEMENT, THE STANDARDS WE RECENTLY OUTLINED TO YOUR OFFICE IN B-211440 ET AL., JUNE 20, 1983, APPEAR TO BE MET.