Text as published on gao.gov, https://www.gao.gov/products/b-213720, archived 2026-08-23. GAO published no original file for this decision. Rendered by Comptroller Desk.

[Response to Request for Reconsideration of Denial of Relief for Army Finance and Accounting Officer]

Number: B-213720

Date: 1986-09-26

B-213720, SEP 26, 1986, OFFICE OF GENERAL COUNSEL

ACCOUNTABLE OFFICERS - ACCOUNTS - SETTLEMENT - STATUTES OF LIMITATION DIGEST: REQUEST FOR RECONSIDERATION OF DECISION B-213720, OCT. 2, 1984, DENYING RELIEF TO ACCOUNTABLE OFFICER WHOSE SUBORDINATE DISREGARDED PAYMENT INSTRUCTIONS AND MISTAKENLY CERTIFIED PAYMENT TO THE WRONG PARTY RAISED A QUESTION ABOUT THE STATUTE OF LIMITATIONS, 31 U.S.C. SEC. 3526(C) (1982). THE ORIGINAL DECISION COMPUTED THE LIMITATIONS PERIOD USING THE DATE OF THE SECOND CHECK TO THE CORRECT PARTY, ON THE THEORY THAT THIS WAS WHEN THE GOVERNMENT ACTUALLY SUSTAINED A LOSS. HOWEVER, IN VIEW OF THE FACT THAT THE ACCOUNT WAS AUDITABLE AND THE ERROR COULD HAVE BEEN DISCOVERED AT THE TIME THE FIRST PAYMENT WAS MADE, SINCE THERE WAS A VALID NOTICE OF ASSIGNMENT IN THE FILE, THE ACCOUNT SHOULD BE DEEMED SETTLED BY OPERATION OF LAW. ANY DEDUCTIONS FROM THE SALARY OF THE ACCOUNTABLE OFFICER, BASED ON OUR PREVIOUS DECISION, SHOULD BE REFUNDED TO HIM.

MR. CLYDE E. JEFFCOAT:

PRINCIPAL DEPUTY COMMANDER

U.S. ARMY FINANCE AND

ACCOUNTING CENTER

INDIANAPOLIS, INDIANA 46249

THIS RESPONDS TO YOUR REQUEST FOR RECONSIDERATION OF OUR DECISION IN B-213720, OCT. 2, 1984, DENYING RELIEF TO MR. STANLEY B. WRENN, FINANCE AND ACCOUNTING OFFICER, U.S. ARMY CORPS OF ENGINEERS, MEMPHIS DISTRICT, MEMPHIS, TENNESSEE, FOR AN IMPROPER PAYMENT IN THE AMOUNT OF $8,414. WITH YOUR REQUEST, YOU SUBMITTED A LETTER FROM LIEUTENANT GENERAL E. R. HEIBERG, SOLICITING GAO'S VIEWS ON THE EFFECT OF THE STATUTE OF LIMITATIONS ON MR. WRENN'S LIABILITY. UPON EXAMINATION, WE HAVE CONCLUDED THAT THE STATUTE OF LIMITATIONS HAD RUN BY THE TIME OUR ORIGINAL DECISION WAS ISSUED. IT IS THEREFORE NO LONGER NECESSARY TO SEEK RELIEF FOR MR. WRENN; HIS ACCOUNT WAS SETTLED BY OPERATION OF LAW ON AUGUST 13, 1984, 3 YEARS AFTER THE ORIGINAL CHECK WAS ISSUED.

BRIEFLY, THE FACTS ARE AS FOLLOWS. ON AUGUST 13, 1981, MR. WRENN ISSUED A TREASURY CHECK FOR $8,414 TO JARNOCO OIL COMPANY, WITHOUT REMEMBERING THAT HE HAD PERSONALLY RECEIVED AND ACKNOWLEDGED A NOTICE THAT THE CAHABA BANK AND TRUST COMPANY WAS LEGALLY ENTITLED TO THE FUNDS AS THE ASSIGNEE OF JARNOCO'S CONTRACT. AS A RESULT OF THE ERROR, JARNOCO'S WRONGFUL RETENTION OF THE FUNDS, AND ITS INTERVENING INSOLVENCY, A SECOND CHECK WAS ISSUED TO THE BANK ON MARCH 18, 1982.

THE CHIEF OF THE EXAMINATION SECTION, MR. WRENN'S SUBORDINATE AND DELEGATED CERTIFYING OFFICER, HAD DISREGARDED JARNOCO'S CLEAR PAYMENT INSTRUCTION, TYPE ON THE COMPANY'S INVOICE, TO "REMIT PAYMENT DIRECTLY TO THE CAHABA BANK & TRUST CO." ALTHOUGH MR. WRENN SAYS HE FORWARDED COPIES OF THE NOTICE OF ASSIGNMENT TO THE MEMPHIS DISTRICT CONTRACTING OFFICER, WHO ALSO PERSONALLY ACKNOWLEDGED RECEIPT, SOMEHOW THE ASSIGNMENT WAS NOT INCLUDED IN THE CONTRACT FILE.

IN OUR ORIGINAL DECISION, WE CONSIDERED THE STATUTE OF LIMITATIONS TO HAVE COMMENCED ON MARCH 18, 1982, THE DATE THAT A SECOND CHECK WAS SENT TO THE BANK TO REMEDY THE PREVIOUS ERROR. WE CHOSE THE DATE OF THE SECOND CHECK, BECAUSE IT WAS ON THAT DATE THAT MR. WRENN'S ACCOUNT FIRST SHOWED A DEFICIENCY. ANOTHER FACTOR INFLUENCING THE CHOICE WAS THAT THE BANK'S CLAIM IN JANUARY 1982 CONSTITUTED THE FIRST NOTICE TO THE CORPS OF ENGINEERS THAT THE ASSIGNMENT OF CLAIM HAD NOT IN FACT BEEN HONORED. HAD JARNOCO FULFILLED ITS INDEPENDENT CONTRACTUAL OBLIGATION TO PROMPTLY ENDORSE THE IMPROPERLY ISSUED CHECK IN FAVOR OF ITS ASSIGNEE, THE ERROR IN PAYING JARNOCO WOULD HAVE BEEN OF NO LEGAL CONSEQUENCE.

THE SUBMISSION SUGGESTS THAT THE CORRECT DATE TO COMMENCE THE LIMITATIONS PERIOD IS THE DATE OF THE ORIGINAL CHECK, AUGUST 31, 1981. IF THE STATUTE OF LIMITATIONS BEGAN RUNNING ON THIS DATE, OUR ORIGINAL DECISION OF OCTOBER 2, 1984 SHOULD HAVE BEEN FORECLOSED BECAUSE THE ACCOUNT HAD BEEN SETTLED BY OPERATION OF LAW SOME 50 DAYS EARLIER.

THE STATUTE OF LIMITATIONS GOVERNING AN ACCOUNTABLE OFFICER'S LIABILITY IS FOUND AT 31 U.S.C. SEC. 3526(C) (1982) (FORMERLY 31 U.S.C. SEC. 82I). IT PROVIDES THAT--

"(1) THE COMPTROLLER GENERAL SHALL SETTLE AN ACCOUNT OF AN ACCOUNTABLE OFFICIAL WITHIN 3 YEARS AFTER THE DATE THE COMPTROLLER GENERAL RECEIVES THE ACCOUNT. A COPY OF THE CERTIFICATE OF SETTLEMENT SHALL BE PROVIDED THE OFFICIAL.

"(2) THE SETTLEMENT OF AN ACCOUNT IS CONCLUSIVE ON THE COMPTROLLER GENERAL AFTER 3 YEARS AFTER THE ACCOUNT IS RECEIVED BY THE COMPTROLLER GENERAL. ***"

AUDIT AUTHORITY WAS LONG AGO DELEGATED TO THE AGENCIES AND THE COMPTROLLER GENERAL NO LONGER PHYSICALLY RECEIVES ACCOUNTS, SO THE DATE ON WHICH THE STATUTE BEGINS TO RUN IS THE DATE WHEN THE AGENCY'S ACCOUNTS WERE SUBSTANTIALLY COMPLETE AND READY FOR AUDIT. B-198451.2, SEPT. 15, 1982.

REEXAMINING THE FACTS OF THIS CASE, WE FIND THAT AT THE TIME THE ORIGINAL PAYMENT WAS MADE, ALL THE DOCUMENTS NECESSARY TO RAISE A CHARGE IN MR. WRENN'S ACCOUNT WERE IN THE CORPS' POSSESSION AND COULD HAVE BEEN TRACED, EVEN IF THEY WERE TEMPORARILY MISFILED. THE PAYMENT INSTRUCTIONS PRINTED ON THE FACE OF THE INVOICE WOULD HAVE PLACED AN AUDITOR ON NOTICE OF A PROBABLE ASSIGNMENT OF THE CONTRACT PROCEEDS, WHICH WOULD MEAN A PAYMENT TO ANYONE ELSE WAS IMPROPER. ACCORDINGLY, WE THINK IT IS MORE IN KEEPING WITH THE INTENT OF THE STATUTE OF LIMITATIONS, WHICH IS TO PROTECT THE ACCOUNTABLE OFFICER BY LIMITING HIS/HER LIABILITY, TO CONCLUDE THIS MATTER ON STATUTORY GROUNDS.

WHEN A CASE IS DECIDED ON THE BASIS OF THE STATUTE OF LIMITATIONS HAVING EXPIRED, THIS OFFICE HAS NO AUTHORITY TO EITHER GRANT OR DENY RELIEF. THE ACCOUNT IS CONCLUSIVELY SETTLED BY OPERATION OF LAW. ACCORDINGLY, OUR PREVIOUS DECISION WAS INCORRECT. IF ANY FUNDS HAVE BEEN WITHHELD FROM MR. WRENN'S SALARY ON THE BASIS OF THE PREVIOUS DECISION, THEY SHOULD BE REFUNDED TO HIM. THE

ACCOUNT WAS SETTLED ON AUGUST 13, 1984, AND MR. WRENN'S PECUNIARY LIABILITY WAS EXTINGUISHED AS OF THAT DATE.