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[Army Request for Relief for Member From Liability for a Deficiency in His Account]

Number: B-215734

Date: 1984-11-05

B-215734, NOV 5, 1984, OFFICE OF GENERAL COUNSEL

ACCOUNTABLE OFFICERS - RELIEF - REQUIREMENTS FOR GRANTING - RELIEF OF SUPERVISOR DIGEST: ARMY FINANCE OFFICER GRANTED RELIEF FOR ERRONEOUS PAYMENT MADE BY SUBORDINATE. SUBORDINATE CONFIRMED EXISTENCE OF ADEQUATE SYSTEM OF PROCEDURES AND CONTROLS. XXXX5

MR. CLYDE E. JEFFCOAT PRINCIPAL DEPUTY COMMANDER U.S. ARMY FINANCE AND ACCOUNTING CENTER INDIANAPOLIS, INDIANA 46249

DEAR MR. JEFFCOAT:

THIS IS IN RESPONSE TO YOUR LETTER RECEIVED BY OUR OFFICE ON JULY 9, 1984, REQUESTING THAT WE GRANT RELIEF TO LIEUTENANT COLONEL (LTC) C. E. ROWE, FINANCE CORPS, SYMBOL NUMBER 6459, FINANCE OFFICER, 105TH FINANCE SECTION, AUGSBURG, GERMANY, FROM LIABILITY FOR A DEFICIENCY IN HIS ACCOUNT OF $474 RESULTING FROM AN IMPROPER PAYMENT. FOR THE REASONS DISCUSSED BELOW, THE REQUESTED RELIEF IS GRANTED.

THE LOSS OCCURRED WHEN THE NOVEMBER 1981 PAYCHECK OF SPECIALIST FOUR (SP4) MICHAEL D. F. PELLY WAS CASHED WITH A FRAUDULENT ENDORSEMENT AT THE 105TH FINANCE SECTION FINANCE AND ACCOUNTING OFFICE. WHILE THE LOSS OF FUNDS WAS INCURRED DURING THE INCUMBENCY OF LTC ROWE, IT WAS NOT DISCOVERED UNTIL 1983, AT WHICH TIME, MAJOR N. H. RICHARD HAD ASSUMED ACCOUNTABILITY FOR THE OPERATION.

AFTER AN INVESTIGATION OF THE LOSS, CASHIER SP4 THOMAS C. INGRAM WAS FOUND TO BE THE CASHIER RESPONSIBLE FOR CASHING THE CHECK. HOWEVER, THE PAYEE RESPONSIBLE FOR PRESENTING THE CHECK TO SP4 INGRAM HAS NOT BEEN IDENTIFIED.

WE HAVE HELD THAT A GOVERNMENT DISBURSING OFFICER IS PERSONALLY LIABLE FOR DEFICIENCIES OF FUNDS IN HIS CHARGE CAUSED BY INCORRECT PAYMENTS, REGARDLESS OF WHETHER THOSE DEFICIENCIES ARE THE RESULT OF ERRORS MADE BY HIM PERSONALLY OR BY HIS SUBORDINATES. 62 COMP.GEN. 476 (1983). HOWEVER, OUR OFFICE MAY RELIEVE A DISBURSING OFFICER FROM LIABILITY FOR A DEFICIENCY ARISING FROM IMPROPER PAYMENT IF THE IMPROPER PAYMENT "WAS NOT THE RESULT OF BAD FAITH OR LACK OF REASONABLE CARE BY THE OFFICIAL" AND A DILIGENT COLLECTION EFFORT HAS BEEN MADE. 31 U.S.C. SEC. 3527(C).

OUR OFFICE HAS RECOGNIZED THAT, IN DISBURSING OPERATIONS PROCESSING A HIGH VOLUME OF PAYMENTS, IT MAY NOT BE PRACTICAL FOR A SUPERVISORY DISBURSING OFFICER TO PERSONALLY CHECK THE PROPRIETY AND CORRECTNESS OF EACH VOUCHER AND CHECK, AND FAILURE TO DO SO WILL NOT BE DEEMED TO BE IN ITSELF, NEGLIGENCE IN THE EVENT AN

IMPROPER PAYMENT IS MADE. B-194877, JULY 12, 1979. WHEN A DISBURSING OFFICER RELIES UPON A SUBORDINATE TO ACTUALLY DISBURSE FUNDS, RELIEF MAY BE GRANTED UPON A SHOWING THAT THE DISBURSING OFFICER PROPERLY SUPERVISED HIS SUBORDINATES BY MAINTAINING AN ADEQUATE SYSTEM OF PROCEDURES AND CONTROLS TO AVOID ERRORS, AND TOOK STEPS TO SEE THAT THE SYSTEM WAS EFFECTIVE AND BEING FOLLOWED. 62 COMP.GEN. 476, 480.

A DETAILED LISTING OF CHECK CASHING PROCEDURES HAS BEEN PROVIDED BY THE ARMY AND INCLUDES THE STEPS REQUIRED IN THE CASHIER'S VERIFICATION OF IDENTIFYING SIGNATURES ON ALL CHECKS. AN INVESTIGATION SUBSEQUENT TO THE LOSS REVEALED THAT THESE PROCEDURES WERE ADEQUATE. MOREOVER, SP4 INGRAM STATED THAT HE WAS FAMILIAR WITH THESE PROCEDURES AND SIGNED A STATEMENT IN WHICH HE CHOSE NOT TO SUBMIT EVIDENCE TO REBUT THE ARMY'S FINDING OF LIABILITY AGAINST HIM.

IN LIGHT OF THESE FACTS, THE DEFICIENCY OF FUNDS WAS NOT THE RESULT OF BAD FAITH OR LACK OF REASONABLE CARE ON THE PART OF LTC ROWE. FURTHERMORE, BECAUSE THE IDENTITY OF THE PAYEE IS UNKNOWN, COLLECTION ACTION HAS NOT BEEN POSSIBLE. IF THE PAYEE'S IDENTITY IS DISCOVERED, THE ARMY WILL BE REQUIRED TO PURSUE COLLECTION DILIGENTLY. 31 U.S.C. SEC. 3527(D)(2)(B). FOR THESE REASONS, WE RELIEVE LTC ROWE FROM LIABILITY FOR THE IMPROPER PAYMENT OF $474 ON THE FRAUDULENTLY ENDORSED CHECK.