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[Request for Relief for Army Finance Officer for Improper Payment]

Number: B-215833

Date: 1984-12-21

B-215833, DEC 21, 1984, OFFICE OF GENERAL COUNSEL

ACCOUNTABLE OFFICERS - RELIEF - ILLEGAL OR ERRONEOUS PAYMENTS - WITHOUT FAULT OR NEGLIGENCE DIGEST: U.S. ARMY FINANCE AND ACCOUNTING OFFICER IS RELIEVED OF LIABILITY FOR IMPROPER PAYMENT OF A CHECK WITH A FORGED ENDORSEMENT MADE BY SUBORDINATE CASHIER WHERE HE MAINTAINED AND SUPERVISED ADEQUATE SYSTEM OF PROCEDURES DESIGNED TO PREVENT IMPROPER PAYMENT. CASHIER IS ALSO RELIEVED OF LIABILITY FOR MAKING IMPROPER PAYMENT WHERE SHE COMPLIED WITH EXISTING PROCEDURES WHICH DID NOT DETECT CRIMINAL ACTIVITY RESULTING IN PAYMENT.

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 REQUEST THAT RELIEF BE GRANTED UNDER 31 U.S.C. SEC. 3527(C) FOR AN IMPROPER PAYMENT OF $342.87 CHARGEABLE TO THE ACCOUNT OF LIEUTENANT COLONEL (LTC) HAROLD D. FLYNN, FINANCE CORPS, SYMBOL NUMBER 6333, FINANCE OFFICER, U.S. ARMY FINANCE AND ACCOUNTING CENTER, EUROPE, APO NEW YORK 09007 AND PAID BY THE CASHIER SPECIALIST FIVE (SP5) HANNAH M. CHRISTEL. FOR THE REASONS STATED BELOW, RELIEF IS GRANTED TO BOTH LTC FLYNN AND SP5 CHRISTEL.

THE IMPROPER PAYMENT OCCURRED WHEN AN INTERNAL REVENUE SERVICE (IRS) REFUND CHECK MADE PAYABLE TO MICHAEL R. JACKSON, WAS CASHED WITH A FRAUDULENT ENDORSEMENT AT THE FORWARD SUPPORT TEAM, KARLSRUHE, GERMANY. AN INVESTIGATION BY THE ARMY DID NOT IDENTIFY THE RECIPIENT OF THE MONEY PAID BY SP5 CHRISTEL, THE CASHIER WHO CASHED THE FORGED CHECK.

SP5 CHRISTEL, AS THE ONE WHO ACTUALLY CASHED THE CHECK, AND LTC FLYNN, AS A SUPERVISORY ACCOUNTABLE OFFICER, ARE LIABLE FOR THE IMPROPER PAYMENT. HOWEVER, THIS OFFICE IS AUTHORIZED TO GRANT RELIEF UPON A SHOWING THAT AN 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). WHERE A SUBORDINATE ACTUALLY DISBURSES FUNDS RATHER THAN THE SUPERVISORY DISBURSING OFFICER, WE HAVE GRANTED RELIEF UPON A SHOWING THAT THE FINANCIAL OFFICER PROPERLY SUPERVISED HIS SUBORDINATES BY MAINTAINING AN ADEQUATE SYSTEM OF PROCEDURES AND CONTROLS TO SAFEGUARD THE FUNDS, AND TOOK STEPS TO SEE THAT THE POLICY WAS EFFECTIVELY BEING FOLLOWED. SEE B-209717.2, JULY 1, 1983.

HERE, THE RECORD INDICATES THAT ADEQUATE SUPERVISORY CONTROLS AND OFFICE PROCEDURES WERE IN EFFECT AT THE TIME THE IMPROPER PAYMENT WAS MADE. WHILE THE INVESTIGATION WAS UNABLE TO LOCATE A COPY OF THE STANDING OPERATING PROCEDURES IN EFFECT AT THE TIME THE CHECK WAS CASHED, LTC FLYNN HAS PROVIDED THE ARMY WITH

COPIES OF SIMILAR INSTRUCTIONS AND PROCEDURES THAT WOULD HAVE BEEN IN EFFECT AT THE TIME THE IMPROPER PAYMENT WAS MADE. SP5 CHRISTEL'S STATEMENT CONFIRMS THESE PROCEDURES AND THAT THEY WERE FOLLOWED BY THE CASHIERS IN HER OFFICE.

AS TO SP5 CHRISTEL, WHO ACTUALLY CASHED THE FORGED CHECK, WHERE A CASHIER APPEARS TO HAVE BEEN IN FULL COMPLIANCE WITH EXISTING DIRECTIVES, AND NOTHING IN THE RECORD SUGGESTS THAT SHE WAS NOT EXERCISING DUE CARE, THIS OFFICE MAY GRANT RELIEF UNDER THE PROVISIONS OF 31 U.S.C. SEC. 3527(C).

SP5 CHRISTEL APPARENTLY DOES NOT RECALL CASHING THIS PARTICULAR CHECK THAT RESULTED IN THE LOSS. SHE AND HER SUPERVISOR, HOWEVER, STATED THAT SHE MUST HAVE CHECKED THE IDENTIFICATION OFFERED BY THE FORGER SINCE SHE ALWAYS CHECKS IDENTIFICATION. THIS HAS LED THE ARMY TO CONCLUDE THAT SHE WAS NOT NEGLIGENT. CHECK CASHING IS A ROUTINE OPERATION. ALTHOUGH IT REQUIRES CLOSE ATTENTION, IT IS UNLIKELY THAT ANYONE WOULD REMEMBER EACH CHECK CASHED OVER A PERIOD OF YEARS. SP5 CHRISTEL WAS ASKED TO MAKE A STATEMENT ABOUT THE LOSS OVER 2 1/2 YEARS AFTER THE LOSS OCCURRED. SINCE A FORGER IS UNLIKELY TO DO ANYTHING INTENTIONALLY TO DRAW ATTENTION TO HIMSELF, SP5 CHRISTEL'S INABILITY TO RECALL THE SPECIFICS OF THE LOSS AFTER SO LONG A TIME IS UNDERSTANDABLE. WE THINK UNDER THESE CIRCUMSTANCES THE RELIANCE IN HER STATEMENT ON HER CONSISTENT PRACTICE OF CHECKING IDENTIFICATION WHICH IS CORROBORATED BY HER SUPERVISOR WHO SAYS SHE WAS AN OUTSTANDING CASHIER, IS CONVINCING EVIDENCE. NOTHING IN THE RECORD SUGGESTS THAT SP5 CHRISTEL SHOULD HAVE BEEN AWARE OF THE FRAUDULENT CHARACTER OF THE DOCUMENTS. WE THEREFORE, CONCLUDE THAT THE IMPROPER PAYMENT WAS NOT THE RESULT OF BAD FAITH OR LACK OF REASONABLE CARE ON THE PART OF LTC FLYNN OR SP5 CHRISTEL. ID.

COLLECTION ACTION HAS NOT BEEN POSSIBLE IN THIS CASE BECAUSE THE IDENTITY OF THE PAYEE IS STILL UNKNOWN. ACCORDINGLY, WE GRANT RELIEF TO LTC FLYNN AND SP5 CHRISTEL FROM LIABILITY FOR THE IMPROPER PAYMENT OF $342.87.