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B-217114.2, Feb 3, 1988

Number: B-217114.2

Date: 1988-02-03

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DIGEST: Supervisory U.S. Army Finance and Accounting officer is relieved of liability for improper payments because he maintained and supervised an adequate system of procedures to prevent improper payments. The improper payments were the result of criminal activity outside the control of the finance officer.

Brigadier General B. W. Hall Deputy Commander U.S. Army Finance and Accounting Center

This responds to your request of July 21, 1987, that we relieve Mr. G. E. Durham, Special Disbursing Agent, DSSN 3995, U.S. Army Engineer District, under 31 U.S.C. Sec. 3527(c) for improper payments totaling $6,341.00 chargeable to his account. For the reasons stated below, relief is granted.

BACKGROUND

Deficiencies totaling $77,125.44 were discovered in Mr. Durham's account as a result of an investigation of travel fraud involving 12 employees of the Mobile District. The investigation, conducted by Security and Law Enforcement personnel and the Federal Bureau of Investigation at the request of the South Atlantic Division Audit Team, indicated that the 12 individuals had falsified their travel vouchers by claiming reimbursement for lodging expenses not incurred.

Seven of the individuals made full restitution. The debts of the other five persons were referred to U.S. Attorney's Office. In February 1983, the U.S. District Court for the Southern District of Alabama tried and convicted the five and ordered them to make restitution. According to your submission, ongoing collection efforts by Mr. Durham and the court have resulted in recovery of $47,427.54, leaving a balance of $29,697.90.

Mr. Durham bears no pecuniary liability for that portion of the remaining debt that has been settled by operation of law upon the running of the statute of limitations. However, on June 24, 1984, our Office issued a Notice of Exception which tolled the statute of limitations on the payments made from Mr. Durham's account during the period May 11, 1982 through August 12, 1982. On the basis of the court's actions, the extent of Mr. Durham's liability during this period is $6,341.00 and is the basis of your relief request. See B-220172, March 4, 1986.

DISCUSSION

Under 31 U.S.C. Sec. 3527(c), this Office has the authority to relieve a disbursing official from liability for an improper payment when the record shows

that the payment was not the result of bad faith or lack of reasonable care. In the case of a supervisory official, our Office will grant relief upon a showing that the official 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 being effectively implemented. B-228851, October 13, 1987.

According to your letter and supporting documents, Mr. Durham had established and maintained an adequate system of controls to safeguard the funds for which he was responsible. We also note that upon being informally advised of the investigation in October 1982, Mr. Durham immediately caused all funds held by the U.S. Government potentially payable to the individuals involved to be frozen. Therefore, we concur in your finding that Mr. Durham acted in good faith and with reasonable care.

It appears that the improper payments in this case were the result of criminal activity over which Mr. Durham had no control. Even the most carefully established and efficiently supervised system cannot prevent every conceivable form of criminal activity. Under these circumstances, we grant relief.