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[Request for Relief From Liability for Imprest Fund Shortage]

Number: B-217876

Date: 1986-04-29

B-217876, APR 29, 1986

ACCOUNTABLE OFFICERS - PHYSICAL LOSSES, ETC. OF FUNDS, VOUCHERS, ETC. - CASHIERS, ETC. - IMPREST FUND - RELIEF GRANTED DIGEST: RELIEF IS GRANTED TO CASHIER AND ALTERNATE CASHIER UNDER 31 U.S.C. SEC. 3527(A) FOR AN UNEXPLAINED LOSS BECAUSE AGENCY FAILED TO PROVIDE PROPER SECURITY ARRANGEMENTS AND THAT FAILURE MAY BE VIEWED AS THE PROXIMATE CAUSE OF THE ENSUING LOSS.

MR. JOHN T. O'SHAUGHNESSY:

ASSISTANT SECRETARY FOR MANAGEMENT

AND BUDGET

DEPARTMENT OF HEALTH AND

HUMAN SERVICES

WASHINGTON, D.C. 20201

THIS IS IN RESPONSE TO YOUR LETTER OF MARCH 13, 1985, REQUESTING THAT DONALD S. TOWLES, CASHIER, AND AUBREY J. TAYLOR, ALTERNATE CASHIER, OFFICE OF THE SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES, BE RELIEVED FROM LIABILITY FOR A $4,061.18 IMPREST FUND SHORTAGE. AFTER CONSIDERATION OF THE CIRCUMSTANCES INVOLVED IN THIS CASE, WE HAVE DECIDED TO GRANT RELIEF.

THE RECORD INDICATES THAT ON MARCH 14, 1978, APPROPRIATE PERSONNEL CONDUCTED AN UNANNOUNCED CASH COUNT OF THE IMPREST FUND MAINTAINED FOR THE OFFICE OF THE SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND SUBSEQUENTLY DISCOVERED A SHORTAGE TOTALLING $4,061.18. AN INVESTIGATION BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES' OFFICE OF INVESTIGATION, OFFICE OF INSPECTOR GENERAL COULD NOT DETERMINE PRECISELY WHEN OR HOW THE SHORTAGE OCCURRED. THE INVESTIGATION DID, HOWEVER, DISCOVER THAT SERIOUS DEFICIENCIES IN THE MANNER IN WHICH THE IMPREST FUND WAS INTERNALLY CONTROLLED CONTRIBUTED TO CONDITIONS PERMITTING THE CASH SHORTAGE. SPECIFICALLY, THE INVESTIGATION FOUND THAT SEPARATE CASH DRAWERS WERE NOT MAINTAINED FOR THE CASHIER AND ALTERNATE CASHIER, UNANNOUNCED QUARTERLY CASH COUNTS WERE NOT CONDUCTED, SAFE COMBINATIONS WERE NOT CHANGED AND TOTAL FUND ACCOUNTABILITY WAS NOT ALWAYS ASCERTAINED WHEN THE CASHIER OR ALTERNATE CASHIER WAS REPLACED, PHYSICAL SAFEGUARDS OVER UNSCHEDULED SUBVOUCHERS AND UNPAID REIMBURSEMENT VOUCHERS WERE INADEQUATE, AND DOCUMENTATION OF DISBURSEMENT WAS UNRELIABLE. SINCE THE CASHIER DID NOT OBTAIN RECEIPTS FOR FUNDS ADVANCED TO THE ALTERNATE CASHIER, AND THE TWO INDIVIDUALS OPERATED OUT OF THE SAME CASH BOX, THE INVESTIGATION COULD NOT DETERMINE WHO WAS RESPONSIBLE FOR THE LOSS.

FOLLOWING THE ISSUANCE OF THE INVESTIGATION REPORT IN NOVEMBER 1985, THE SUPERVISOR OF MESSRS. TOWLES AND TAYLOR RECOMMENDED THAT ADVERSE ACTION BE TAKEN AGAINST THEM FOR THEIR FAILURE TO FOLLOW PRESCRIBED PROCEDURES. NO ADVERSE ACTION WAS TAKEN, HOWEVER, BECAUSE THE DEFICIENCIES IN THE MANAGEMENT OF THE IMPREST FUND COULD NOT BE ATTRIBUTED SOLELY TO THESE TWO INDIVIDUALS. SINCE THE RESPONSIBILITY FOR THE LOSS COULD NOT BE PLACED ON THE CASHIER AND THE ALTERNATE CASHIER, YOU REQUESTED THAT THEY BE RELIEVED OF THE LOSS.

THE GENERAL ACCOUNTING OFFICE IS AUTHORIZED TO GRANT RELIEF FROM LIABILITY TO AN ACCOUNTABLE OFFICER UPON ITS CONCURRENCE WITH DETERMINATIONS BY THE DEPARTMENT OR AGENCY HEAD THAT (1) THE LOSS OR DEFICIENCY OCCURRED WHILE THE OFFICER OR AGENT WAS ACTING IN THE DISCHARGE OF HIS OFFICIAL DUTIES, OR THAT IT OCCURRED BY REASON OF ACT OR OMISSION OF A SUBORDINATE OF THE OFFICER OR AGENT, AND (2) THE LOSS OR DEFICIENCY OCCURRED WITHOUT FAULT OR NEGLIGENCE ON THE PART OF THE OFFICER OR AGENT. 31 U.S.C. SEC. 3527(A).

THE SHORTAGE INVOLVED IN THIS CASE IS AN UNEXPLAINED LOSS. GENERALLY, THE DISAPPEARANCE OF FUNDS WITHOUT AN EXPLANATION GIVES RISE TO A PRESUMPTION OF NEGLIGENCE ON THE PART OF THE ACCOUNTABLE OFFICER AND THE BURDEN IS ON THE OFFICER TO REBUT THE PRESUMPTION WITH EVIDENCE TO THE CONTRARY. IN THIS REGARD, EVEN THE ABSENCE OF IMPLICATING EVIDENCE DOES NOT REBUT THE PRESUMPTION NOR DOES A MERE ADMINISTRATIVE DETERMINATION THAT THERE IS NO FAULT OR NEGLIGENCE IF IT IS UNSUPPORTED BY EVIDENCE. B-209569, APR. 13, 1983. HOWEVER, AN ACCOUNTABLE OFFICER MAY BE NEGLIGENT AND NEVERTHELESS BE RELIEVED FROM LIABILITY IF THE NEGLIGENCE IS NOT THE "PROXIMATE CAUSE" OF THE LOSS OR SHORTAGE. B-202597, MAY 6, 1983.

THE INVESTIGATION UNCOVERED NUMEROUS SERIOUS DEFICIENCIES IN THE MANNER IN WHICH THE IMPREST FUND WAS INTERNALLY CONTROLLED. OUR OFFICE HAS PREVIOUSLY HELD THAT WHEN AN AGENCY FAILS TO PROVIDE PROPER SECURITY ARRANGEMENTS FOR THE SAFEKEEPING OF GOVERNMENT FUNDS, THAT FAILURE MAY BE VIEWED AS THE PROXIMATE CAUSE OF THE ENSUING LOSS AND THE ACCOUNTABLE OFFICER MAY BE RELIEVED FROM LIABILITY. B-202597, MAY 6, 1983; B-182386, APR. 24, 1975. UNDER THE CIRCUMSTANCES, IT IS REASONABLE TO CONCLUDE THAT THE PERVASIVE LAXITY OF OFFICE PROCEDURES WAS THE PROXIMATE CAUSE OF THE LOSS. ACCORDINGLY, WE GRANT RELIEF.

WE MUST ADD THAT, EVEN HAD WE DENIED RELIEF IN THIS CASE, IT WOULD BE EXTREMELY DIFFICULT FOR THE AGENCY TO RECOVER ANY FUNDS FROM THE CASHIER OR THE ALTERNATE CASHIER BECAUSE OF THE LENGTH OF TIME THAT HAD ELAPSED BETWEEN THE DISCOVERY OF THE LOSS AND YOUR REQUEST FOR RELIEF. IN THIS CASE, THE LOSS WAS DISCOVERED AND INVESTIGATED IN 1978. WE CAN SEE NOTHING IN THE RECORD WHICH JUSTIFIES NOT REQUESTING RELIEF UNTIL MARCH 1985.