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[Request for Relief for VA Imprest Fund Cashier]

Number: B-217945

Date: 1985-07-23

B-217945, JUL 23, 1985, OFFICE OF GENERAL COUNSEL

ACCOUNTABLE OFFICERS - PHYSICAL LOSSES, ETC. OF FUNDS, VOUCHERS, ETC. - CASHIERS, ETC. - RELIEF GRANTED DIGEST: UNDER 31 U.S.C. SEC. 3527(A), RELIEF IS GRANTED TO VETERANS ADMINISTRATION IMPREST FUND CASHIER FROM LIABILITY FOR LOSS OF FUNDS RESULTING FORM APPARENT THEFT. RELIEF GRANTED DESPITE LACK OF SPECIFIED EVIDENCE IN RECORD REBUTTING PRESUMPTION OF ACCOUNTABLE OFFICER'S NEGLIGENCE, SINCE DISAPPEARANCE OF LOCKED CASH BOXES FROM SAFE INDICATES PROBABLE THEFT. ALSO, DEFINITE PLACEMENT OF RESPONSIBILITY FOR LOSS IS PRECLUDED SINCE CASHIER AND TWO ALTERNATES KNEW COMBINATION AND HAD READY ACCESS TO SAFE. RELIEF IS GRANTED TO TWO ALTERNATE CASHIERS, DESPITE LACK OF FORMAL REQUEST TO DO SO, BECAUSE CIRCUMSTANCES FOR EACH CASHIER'S LOSS OF LOCKED CASH BOX WERE IDENTICAL TO THOSE FOR CASHIER'S LOSS.

MR. CONRAD R. HOFFMAN: DIRECTOR, OFFICE OF BUDGET AND FINANCE (CONTROLLER) VETERANS ADMINISTRATION WASHINGTON D.C. 20420

THIS IS IN RESPONSE TO YOUR REQUEST OF MARCH 27, 1985, THAT IDA N. SCOTT, IMPREST FUND CASHIER AT THE VETERANS ADMINISTRATION (VA) MEDICAL CENTER, LOUISVILLE, KENTUCKY, BE RELIEVED FROM LIABILITY FOR AN $839.57 IMPREST FUND LOSS. THE LOSS RESULTED FROM AN APPARENT THEFT WHICH TOOK PLACE ON OR ABOUT MAY 14, 1984. FOR THE REASONS SET FORTH BELOW, WE GRANT RELIEF.

THE RECORD INDICATES THAT AT APPROXIMATELY 9:00 A.M. ON MONDAY, MAY 14, 1984, MS. SCOTT OPENED THE IMPREST FUND SAFE AND FOUND THAT FOUR LOCKED METAL CASH BOXES WERE MISSING. THREE OF THE CASH BOXES, BELONGING TO MS. SCOTT AND TWO ALTERNATE IMPREST FUND CASHIERS, CONTAINED A TOTAL OF $1,500 IN CASH AND RECEIPTS; THE FOURTH BOX CONTAINED THE OFFICE COFFEE FUND, TOTALLING ABOUT $100. THE MISSING RECEIPTS, TOTALLING $660.43, SUBSEQUENTLY WERE REPLENISHED BY A SPECIAL RECONSTRUCTION, SO THE ACTUAL CASH LOSS WAS $839.57.

ALTHOUGH THERE IS NO RECORD OR NARRATIVE SETTING FORTH ANY OF MS. SCOTT'S ACTIONS OR THE SAFETY PROCEDURES REQUIRED BY HER OFFICE PRIOR TO MAY 14, 1984, THE LOSS APPARENTLY WAS THE RESULT OF THEFT. INFORMATION IN THE RECORD INDICATES THAT ON MAY 14 THE SAFE WAS DOUBLE LOCKED, AND THAT A SEARCH OF THE LOCKED OFFICE AND BUILDING AND OF THE SURROUNDING AREA SHOWED NO SIGNS OF FORCED ENTRY ANYWHERE. AN INVESTIGATION BY THE FEDERAL BUREAU OF INVESTIGATION PRODUCED NO EVIDENCE TO IDENTIFY ANY SUSPECTS, OR TO INDICATE THAT MS. SCOTT OR THE ALTERNATE CASHIERS WERE INVOLVED IN ANY WAY IN THE LOSS OF THE FUNDS. THE RECORD ALSO STATES, HOWEVER, THAT ALL THREE IMPREST FUND CASHIERS KNEW THE COMBINATION TO THE SAFE, AND THAT ONE OR MORE OF THEM MAY HAVE INADVERTENTLY DISCLOSED THE COMBINATION TO SOMEONE ELSE. NO PROCEDURAL DEFICIENCIES OTHER THAN THIS POSSIBLE DISCLOSURE WERE IDENTIFIED, ACCORDING TO A REPORT OF THE DIRECTOR OF THE MEDICAL

CENTER.

VA HAS MADE AN ADMINISTRATIVE DETERMINATION THAT MS. SCOTT "WAS WITHOUT FAULT OR NEGLIGENCE AND THAT THE LOSS OCCURED WHILE THIS ACCOUNTABLE INDIVIDUAL WAS ACTING IN THE DISCHARGE OF HER OFFICIAL DUTIES."

THIS OFFICE HAS AUTHORITY UNDER 31 U.S.C. SEC. 3527(A) TO RELIEVE AN ACCOUNTABLE OFFICER OF LIABILITY FOR LOST OR STOLEN FUNDS IF WE AGREE WITH THE DETERMINATION BY THE HEAD OF AN AGENCY THAT THE LOSS IN QUESTION OCCURRED WHILE THE ACCOUNTABLE OFFICER WAS DISCHARGING HIS OR HER OFFICIAL DUTIES AND THAT THE LOSS OCCURED WITHOUT THE CASHIER'S FAULT OR NEGLIGENCE.

A FEDERAL ACCOUNTABLE OFFICER IS HELD TO A HIGH STANDARD OF CARE WITH RESPECT TO THE FUNDS WITH WHICH HE OR SHE IS CHARGED. WHEN A LOSS OF FUNDS OCCURS, THE ACCOUNTABLE OFFICER IS PRESUMED NEGLIGENT, AND HE OR SHE HAS THE BURDEN OF PRESENTING CONVINCING EVIDENCE THAT THE LOSS WAS NOT CAUSED BY NEGLIGENCE ON HIS OR HER PART. SEE 54 COMP.GEN. 112, 114-115 (1974); B-212605, APRIL 19, 1984. THE ABSENCE OF IMPLICATING EVIDENCE IS NOT SUFFICIENT TO REBUT THE PRESUMPTION NOR IS A MERE ADMINISTRATIVE DETERMINATION THAT THERE WAS NO FAULT OR NEGLIGENCE IF IT IS UNSUPPORTED BY EVIDENCE. B-209569, APRIL 13, 1983.

SINCE ASIDE FROM CONCLUSORY STATEMENTS THERE IS NO ACTUAL EVIDENCE IN THE RECORD TO PROVE THAT MS. SCOTT ACTED WITH DUE CARE, WE ORDINARILY WOULD BE COMPELLED TO DENY RELIEF IN THIS CASE. HOWEVER, IN PREVIOUS CASES WE HAVE RECOGNIZED THAT THE DISAPPEARANCE OF AN ENTIRE CASH BOX FROM A LOCKED SAFE INDICATES THAT A THEFT HAS PROBABLY OCCURED. B-212605, SUPRA. FURTHER, THERE WAS SOME EVIDENCE IN THE FILE THAT VA AND THE FBI ATTEMPTED, AT ONE TIME, TO LOCATE A BUILDING MANAGEMENT EMPLOYEE WHO HAD BEEN AWOL FOR ABOUT A WEEK PRIOR TO THE APPARENT THEFT. IN CASES INVOLVING LOSSES DUE TO THEFT, WE GENERALLY HAVE GRANTED RELIEF IF THE EVIDENCE PRESENTED REVEALS THAT THE THEFT CANNOT BE ATTRIBUTED TO FAULT OR NEGLIGENCE ON THE PART OF THE ACCOUNTABLE OFFICER. ID.

AS WE NOTED, MS. SCOTT AND THE TWO ALTERNATE CASHIERS EACH KNEW THE COMBINATION TO THE SAFE. SINCE MORE THAN ONE PERSON HAD READY ACCESS TO THE SAFE IN WHICH THE CASH BOXES WERE KEPT, DEFINITE PLACEMENT OF RESPONSIBILITY FOR THE LOSS IS PRECLUDED. SEE B-209569, SUPRA. WE HAVE GRANTED RELIEF IN SUCH CASES WHERE, AS IN THIS CASE, THERE IS NO EVIDENCE OF CONTRIBUTING NEGLIGENCE ON THE PART OF THE ACCOUNTABLE OFFICER. B-212605, SUPRA; B-199034, FEBRUARY 9, 1981. ACCORDINGLY, WE GRANT RELIEF TO MS. SCOTT IN THE AMOUNT OF $839.57.

IN CONCLUSION, WE NOTE THAT EACH OF THE TWO ALTERNATE CASHIERS, MS. BETTY LOU TEMPLE AND MS. BETTY J. LAHUE, IN ADDITION TO KNOWLEDGE OF THE COMBINATION AND ACCESS TO THE SAFE ALSO HAD EXCLUSIVE CUSTODY OF A LOCKED CASH BOX, APPARENTLY STOLEN DURING THE SAME INCIDENT. THEREFORE EACH IS POTENTIALLY LIABLE FOR THE LOSS OF THOSE FUNDS ALONG WITH MS. SCOTT. FOR THESE REASONS, YOUR REQUEST FOR RELIEF SHOULD HAVE INCLUDED THESE TWO CASHIERS, AND ADMINISTRATIVE DETERMINATIONS SHOULD HAVE BEEN MADE WHETHER EACH ACTED WITHOUT FAULT OR NEGLIGENCE, AND WHETHER THE LOSS OCCURRED WHILE EACH WAS ACTING IN THE DISCHARGE OF HER DUTIES. B-213824, JULY 2, 1984. THE RECORD ESSENTIALLY IS SILENT ABOUT THEM EXCEPT FOR A STATEMENT THAT THE FBI "IS SATISFIED THAT *** THEY ARE NOT INVOLVED." HOWEVER, IN VIEW OF THE FACT THAT THE CIRCUMSTANCES FOR EACH CASHIER'S LOSS OF FUNDS WERE IDENTICAL TO THOSE FOR MS. SCOTT'S LOSS, WE WILL GRANT RELIEF NOW TO MS. TEMPLE AND MS. LAHUE.

FINALLY, SHOULD IT BE NECESSARY IN THE FUTURE FOR YOU TO SUBMIT TO THIS OFFICE

OTHER REQUESTS FOR RELIEF, PLEASE ENSURE THAT EACH REQUEST IS ACCOMPANIED BY A DETAILED STATEMENT FROM EACH INDIVIDUAL FOR WHOM RELIEF IS SOUGHT, SETTING FORTH THE STANDARD PROCEDURES FOLLOWED IN HIS OR HER OFFICE, AND THE SPECIFIC ACTIONS TAKEN BY THE INDIVIDUALS DURING THE RELEVANT TIME PERIODS.