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[Request for Relief of a Cash Loss]

Number: B-219246

Date: 1985-09-09

B-219246, SEP 9, 1985

ACCOUNTABLE OFFICERS - RELIEF - REQUIREMENTS FOR GRANTING DIGEST: WHERE DECEASED HHS REGIONAL CASHIER STOLE IMPREST FUND GAO CANNOT APPROVE REIMBURSEMENT OF IMPREST FUND UNDER 31 U.S.C. SEC. 3527 SINCE THIS ACTION IS CONTINGENT UPON A FINDING THAT CASHIER WAS NOT RESPONSIBLE FOR LOSS. ADJUSTMENTS SHOULD BE CARRIED OUT UNDER 31 U.S.C. SEC. 3530.

MR. JOHN J. O'SHAUGHNESSY ASSISTANT SECRETARY FOR MANAGEMENT AND BUDGET DEPARTMENT OF HEALTH AND HUMAN SERVICES WASHINGTON, D.C. 20201

DEAR MR. O'SHAUGHNESSY:

THIS IS IN RESPONSE TO YOUR REQUEST FOR "RELIEF OF A CASH LOSS" RESULTING FROM THE THEFT OF IMPREST FUNDS BY THE REGIONAL CASHIER, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF ACCOUNTING, FISCAL BUDGET, SAN FRANCISCO, CALIFORNIA. FOR THE REASONS STATED BELOW WE CANNOT GRANT THE REQUESTED RELIEF. THE LOSS SHOULD BE HANDLED AS AN UNCOLLECTABLE DEBT AND THE ACCOUNT RESTORED PURSUANT TO 31 U.S.C. SEC. 3530.

ON OR ABOUT AUGUST 6, 1981, THERE WAS A THEFT OF $51,302.30 FROM THE IMPREST FUND BY DON DREIER, THE REGIONAL CASHIER. MR. DREIER HAD SOLE CUSTODY OF THE IMPREST FUND AND IS THE ONLY ACCOUNTABLE OFFICER WHO COULD BE HELD RESPONSIBLE FOR THE LOSS. THERE IS NO DOUBT THAT MR. DREIER WAS THE THIEF SINCE HE WAS CONVICTED OF THE CRIME. THE GOVERNMENT RECOVERED $26,307.54 FROM MR. DREIER, THUS REDUCING THE OUTSTANDING LOSS TO $24,994.76. EFFORTS TO OBTAIN MR. DREIER'S RETIREMENT FUND OF $775.00 HAVE BEEN UNSUCCESSFUL AND WE ARE INFORMED IT WOULD NOT BE COST EFFECTIVE TO PURSUE FURTHER COLLECTION ATTEMPTS. MR. DREIER DIED ON MARCH 11, 1983. THUS THERE REMAINS AN UNCOLLECTABLE OUTSTANDING LOSS OF $24,994.76.

YOU HAVE REQUESTED RELIEF FOR THIS AMOUNT UNDER 31 U.S.C. SEC. 3527(A) (FORMERLY 31 U.S.C. SEC. 82A-1). SEE ALSO 3 GAO POLICY AND PROCEDURES MANUAL FOR GUIDANCE OF FEDERAL AGENCIES SEC. 58.1. THE RELIEF YOU HAVE REQUESTED IS NOT AVAILABLE UNDER 31 U.S.C. SEC. 3527(A). THIS SUBSECTION PROVIDES ONLY FOR THE REIMBURSEMENT FROM AN APPROPRIATION OR FUND AVAILABLE FOR THE ACTIVITY IN WHICH A PHYSICAL LOSS OF FUNDS OCCURS WHEN, AMONG OTHER CONDITIONS, THE AGENCY FINDS THAT THE LOSS OR DEFICIENCY WAS NOT THE RESULT OF FAULT OR NEGLIGENCE BY THE OFFICIAL OR AGENT RESPONSIBLE FOR THE FUNDS, AND THE GAO CONCURS.

SINCE MR. DREIER STOLE THE MONEY, HE COULD NEVER BE RELIEVED UNDER 31 U.S.C. SEC. 3527(A). YOU HAVE CORRECTLY HANDLED THE LOSS AS A DEBT AND MADE DILIGENT EFFORTS TO COLLECT IT. THE AMOUNTS THAT HAVE NOT BEEN COLLECTED MAY BE WRITTEN

OFF AS UNCOLLECTABLE AND THE IMPREST FUND MAY BE RESTORED FROM AN AVAILABLE APPROPRIATION PURSUANT TO 31 U.S.C. SEC. 3530. THE LOSS IS CHARGED TO THE APPROPRIATION FROM WHICH IT CAME SINCE IT IS GONE AND WILL NOT BE RECOVERED.

WE ARE UNCLEAR WHY MR. DREIER'S RETIREMENT FUND IS UNAVAILABLE UNLESS THE RETIREMENT FUNDS WERE DISBURSED BEFORE NOTICE OF THE DEBT WAS PROVIDED TO THE OFFICE OF PERSONNEL MANAGEMENT. WHILE AN OPM DETERMINATION WOULD BE FINAL AND CONCLUSIVE, THERE IS NOTHING IN THE FILE WHICH INDICATES THAT YOUR DECISION TO DISCONTINUE ATTEMPTS TO OBTAIN A MEASURE OF REIMBURSEMENT FROM MR. DREIER'S RETIREMENT FUND IS BASED ON AN OPM OFFICIAL DETERMINATION.

WHILE THE POINT IS NOT RELEVANT IN THIS CASE, WE WOULD LIKE TO BRING TO YOUR ATTENTION, FOR FUTURE REFERENCE, THAT THIS REQUEST FOR RELIEF IS UNTIMELY. YOUR AGENCY IS ASKED TO REPORT ANY FINANCIAL IRREGULARITIES TO OUR OFFICE WITHIN 2 YEARS FROM THE TIME THE LOSS IS DISCOVERED IN A FINANCE AND ACCOUNTING OFFICER'S ACCOUNT. 7 GAO POLICY AND PROCEDURES MANUAL FOR GUIDANCE OF FEDERAL AGENCIES SEC. 28.14.