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B-220492 December 10, 1985

Number: B-220492

Date: 1985-12-10

B-220492 December 10, 1985

The Honorable Edwin Meese, III Attorney General of the United States

Dear Mr. Attorney General:

Mr. Thomas N. Tolentino, Special Agent with the Bureau of Alocjol, Tobacco and Firearms, Department of the Treasury, through a September 11, 1985 letter (copy enclosed, from his attorney, Thomas P. Cullen, Jr., has invoked his rights under 5 U.S.C. Sec. 5512(b)(1982. That statute permits an accountable officer whose pay is being withheld to satisfy a loss of Government funds for which he is liable to request the General Accounting Office to report the balance due to the Attorney General. The statute further requires the Attorney General to initiate suit against the accountable officer within 60 days, so the matter may be adjudicated in the appropriate United States district court. The Bureau has reported that as of October 12, 1985, Mr. Tolentino's indebtedness to the Government amounted to $6,301.67, plus interest as required by 31 U.S.C. Sec. 3717(1982), and that withholding was continuing.

As a special agent with the Bureau, Mr. Tolentino was assigned to work with the New York Drug Task Force, New York, New York. He was issued several thousand dollars for use in his undercover activities. On June 5, 1984, he was ordered to return the funds in his possession, in the amount of $7,009.85, so they could be used in another operation. Mr. Tolentino returned to his residence in his Government vehicle to retrieve the funds. While returning to the office, he stopped in a high crime area to make a phone call and to conduct other business. He left the funds in the glove compartment of his vehicle and upon his return found the vehicle had been broken into and the funds stolen. The Bureau determined that Mr. Tolentino was negligent in his hndling of the funds and held him liable for their loss. Accountable officers are strictly liable for funds entrusted to them. Serrano v. United States, 612 F.2d 525, 528 (Ct. Cl. 1979); 54 Comp.Gen. 112, 114 (1974). See bureau memoranda dated May 2, 1985, June 3, 1985, June 7, 1985 and October 9, 1985 (copies enclosed), for a more detailed explanation of the loss and the Bureau's finding of liability. The only information we have is contained in these memoranda and we suggest that the Bureau be contacted if additional information is required concerning this case.

By letter of today, we are advising Mr. Cullen, Mr. Tolentino's attorney and the Bureau of this referral. Copies of those letters are enclosed.

Sincerely yours,

(Mrs.) Rollee Effros Associate General Counsel

Enclosure