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[Request for Relief for Army Finance Officer]

Number: B-221144

Date: 1986-04-22

B-221144, APR 22, 1986, OFFICE OF GENERAL COUNSEL

DISBURSING OFFICERS - RELIEF - ERRONEOUS PAYMENTS - NOT RESULT OF BAD FAITH OR NEGLIGENCE DIGEST: ARMY FINANCE AND ACCOUNTING OFFICER IS RELIEVED OF LIABILITY FOR IMPROPER PAYMENT, BY HIS SUBORDINATE, OF AN ALTERED U.S. TREASURY CHECK. THE RECORD INDICATES THAT AN ADEQUATE SYSTEM OF PROCEDURES AND CONTROLS WAS IN EFFECT AT THE TIME OF THE ERRONEOUS PAYMENT AND THAT THE OFFEROR ADEQUATELY POLICED THE SYSTEM.

MR. CLYDE E. JEFFCOAT:

PRINCIPAL DEPUTY COMMANDER

U.S. ARMY FINANCE AND ACCOUNTING CENTER

INDIANAPOLIS, INDIANA 46249

THIS IS IN RESPONSE TO YOUR REQUEST OF NOVEMBER 13, 1985, THAT RELIEF BE GRANTED UNDER 31 U.S.C. SEC. 3527(C) FOR AN IMPROPER PAYMENT OF $820 CHARGEABLE TO THE ACCOUNT OF LIEUTENANT COLONEL (LTC) JERRY H. HEUPLE, FINANCE OFFICER 2D INFANTRY DIVISION (CAMP CASEY), APO SAN FRANCISCO. THE IMPROPER PAYMENT WAS REFLECTED ON LTC WALTER M. WOLFE'S, LTC HEUPLE'S SUCCESSOR TO THE ACCOUNT, STATEMENT OF ACCOUNTABILITY FOR JUNE 1985. FOR THE REASONS STATED BELOW, WE GRANT THE REQUESTED RELIEF IN THE AMOUNT OF $911.

THE LOSS OCCURRED ON OR ABOUT MARCH 8, 1983, WHEN AN UNIDENTIFIED CLASS A AGENT OFFICER CASHED THE ALTERED PAYCHECK OF THEN-PRIVATE MICHAEL E. HAWES. THE CHECK AS ORIGINALLY ISSUED WAS FOR $91, BUT AN UNKNOWN INDIVIDUAL HAD ALTERED THE AMOUNT TO READ $911. YOU CORRECTLY NOTE THAT PV2 HAWES WAS ENTITLED TO $91, THE AMOUNT ORIGINALLY IMPRINTED ON HIS END- OF-MONTH PAYCHECK. THE ARMY HAS NOT DETERMINED THAT PV2 HAWES EVER RECEIVED THAT AMOUNT EVEN THOUGH THERE IS NO ALLEGATION THAT SOMEONE ELSE FORGED THE ENDORSEMENT AND RAISED THE CHECK. THEREFORE, THE IMPROPER PAYMENT SHOULD BE CONSIDERED TO BE THE FULL AMOUNT OF THE CHECK AS ALTERED. SEE, 62 COMP.GEN. 614 (1983). ACCORDINGLY, OUR DECISION REFLECTS A $911 AMOUNT AT ISSUE, NOT THE $820 AMOUNT FOR WHICH RELIEF WAS REQUESTED.

AS THE DISBURSING OFFICER OFFICIALLY RESPONSIBLE FOR THE ACCOUNT, LTC HEUPLE IS PERSONALLY LIABLE FOR DEFICIENCIES IN HIS ACCOUNTS CAUSED BY IMPROPER PAYMENTS MADE BY HIS SUBORDINATES. SEE 62 COMP.GEN. AT 476. IN ORDER FOR US TO GRANT RELIEF TO LTC HEUPLE, WE MUST FIND THAT HE PROPERLY SUPERVISED HIS SUBORDINATE BY MAINTAINING AN ADEQUATE SYSTEM OF PROCEDURES AND CONTROLS TO SAFEGUARD THE FUNDS AND TOOK STEPS TO INSURE THE SYSTEM'S IMPLEMENTATION AND EFFECTIVENESS.

E.G., 62 COMP.GEN. AT 480.

ACCORDING TO YOUR LETTER AND SUPPORT DOCUMENTS, NEITHER THE IDENTITY OF THE CLASS A AGENT OFFICER NOR A COPY OF THE OFFICER'S STANDING OPERATING PROCEDURES IN EFFECT AT THE TIME OF THE QUESTIONED TRANSACTION IS ASCERTAINABLE. THE IDENTITY OF THE CLASS A AGENT WOULD GENERALLY BE AVAILABLE FROM THE DD FORMS 1081, STATEMENT OF AGENT OFFICER'S ACCOUNT OR EAID FORMS 342, RECORD OF NEGOTIABLE INSTRUMENTS. UNDER ARMY REGULATION 37-103, PARA. 15-55B(2), DD FORMS 1081 ARE ONLY REQUIRED TO BE RETAINED BY THE FINANCE OFFICE UNTIL THE FUNDS ARE ACCOUNTED FOR. EAID FORMS 342 ARE REQUIRED TO BE RETAINED FOR 3 YEARS. ARMY REGULATION 37-103, PARA. 3-96. HOWEVER, WE ARE INFORMED THAT THE 2D INFANTRY DIVISION FINANCE OFFICE'S CURRENT FILES ONLY GO BACK TO MAY 1984 BECAUSE DOCUMENTS DATED PRIOR TO THAT TIME WERE ERRONEOUSLY DESTROYED. THEREFORE, NEITHER OF THESE FORMS ARE AVAILABLE IN THIS CASE. NEVERTHELESS, YOU CONCLUDE THAT SUFFICIENT DOCUMENTATION WAS MAINTAINED BY LTC HEUPLE, WHICH, IF NOT DESTROYED, WOULD HAVE ALLOWED FOR PROPER IDENTIFICATION OF THE AGENT OFFICER IN QUESTION.

ALTHOUGH A COPY OF STANDARD OPERATING PROCEDURES IN EFFECT IN MARCH 1983 WAS NOT AVAILABLE, LTC HEUPLE DID PREPARE A STATEMENT ATTESTING THAT THE CURRENT STANDING OPERATING PROCEDURES ARE IDENTICAL TO THOSE THAT WERE IN EFFECT AT THE TIME OF THE IMPROPER PAYMENT. IN ADDITION TO ATTACHING A COPY OF THE CURRENT STANDING OPERATING PROCEDURES, LTC HEUPLE'S STATEMENT ALSO DESCRIBED THE METHODS BY WHICH THOSE PROCEDURES WERE ENFORCED. WHILE WE ARE CONCERNED THAT NEITHER A COPY OF THE STANDARD OPERATING PROCEDURES NOT THE EAID FORMS 342 WERE AVAILABLE FOR OUR INSPECTION, IT APPEARS FROM REVIEWING THE CURRENT SOP'S AND LTC HEUPLE'S STATEMENT THAT THE PROCEDURES THEN IN EFFECT WERE ADEQUATE TO SAFEGUARD THE FUNDS AND WERE PROPERLY MAINTAINED. ACCORDINGLY, WE GRANT RELIEF.

COLLECTION ACTION HAS NOT BEEN ATTEMPTED IN THIS CASE BECAUSE THE ARMY HAS CONCLUDED THAT THERE IS INSUFFICIENT EVIDENCE TO ESTABLISH WITH CERTAINTY WHO ACTUALLY ALTERED AND/OR ENCASHED THE CHECK. OF COURSE, IF THE ARMY RECEIVES SUCH EVIDENCE, IT SHOULD DILIGENTLY PURSUE COLLECTION. 31 U.S.C. SEC. 3527(D)(2)(B).

FINALLY, WE NOTE WITH APPROVAL THAT BECAUSE OF THIS CASE, THE FINANCE OFFICER IS NOW MAINTAINING DD FORMS 1081 FOR 3 YEARS. IN ADDITION, EAID OP FL 332 FORMS, CLASS A AGENT RESPONSIBILITIES, ARE ALSO BEING MAINTAINED. THEREFORE, IN THE FUTURE IT SHOULD BE POSSIBLE TO DETERMINE THE IDENTITY OF A CLASS A AGENT INVOLVED IN A CHECK CASHING SITUATION.