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[Request for Relief for Army Finance Officer]

Number: B-221415

Date: 1986-03-26

B-221415, MAR 26, 1986, OFFICE OF GENERAL COUNSEL

ACCOUNTABLE OFFICERS - RELIEF - ILLEGAL OR ERRONEOUS PAYMENTS - WITHOUT FAULT OR NEGLIGENCE DIGEST: ARMY FINANCE OFFICER AND SUBORDINATE CASHIERS ARE GRANTED RELIEF UNDER 31 U.S.C. SEC. 3527(C) FOR IMPROPER PAYMENTS TOTALLING $2,950. IMPROPER PAYMENTS RESULTED FROM CRIMINAL ACTIVITY OVER WHICH THE FINANCE OFFICER AND CASHIERS HAD NO CONTROL. THE OFFENDER WAS ABLE TO CASH FORGED CHECKS WITH FIVE DIFFERENT CASHIERS EACH OF WHOM CHECKED HIS ID AND NONE OF WHOM NOTED ANY DISCREPANCY BETWEEN THE OFFENDER AND THE ID PICTURE OR BETWEEN THE ID SIGNATURE AND THAT ON THE CHECK.

MR. CLYDE E. JEFFCOAT:

ACTING ASSISTANT COMPTROLLER

FOR FINANCE AND ACCOUNTING

UNITED STATES ARMY FINANCE AND

ACCOUNTING CENTER

INDIANAPOLIS, INDIANA 46249

YOUR HAVE REQUESTED RELIEF UNDER SECTION 3527(C) OF TITLE 31 OF THE U.S.C. FOR ARMY FINANCE OFFICER, LIEUTENANT COLONEL (LTC) JEFFREY C. ROGERS, AND CASHIERS, ROSENDO G. BARNACHEA, KENNETH A. BACON, JIMMY W. COBB, FRANK L. REYES AND BARBARA J. KELLY FOR IMPROPER PAYMENTS TOTALLING $2,950. FOR THE REASONS GIVEN BELOW, YOUR RELIEF REQUEST IS GRANTED.

THE FACTS SHOW THAT IN FEBRUARY 1984, PRIVATE FIRST CLASS (PFC) MATTHEW J. BURKHART LOST OR HAD STOLEN HIS ARMY IDENTIFICATION (ID) CARD. PFC BURKHART APPARENTLY IMMEDIATELY INFORMED THE MILITARY POLICE OF THE LOSS. AN AS-YET-UNKNOWN IMPOSTER, APPARENTLY OF SIMILAR APPEARANCE, THEN USED THIS CARD TO OPEN A CHECKING ACCOUNT IN THE NAME OF MATTHEW J. BURKHART AT THE ROBINSON BARRACKS AMERICAN EXPRESS BANKING FACILITY IN STUTTGART. THE INDIVIDUAL DEPOSITED $50 INTO THE ACCOUNT AND WAS ISSUED 25 STARTER CHECKS. THE STARTER CHECKS WERE STAMPED WITH MR. BURKHART'S NAME, SOCIAL SECURITY NUMBER AND ARMY UNIT.

SUBSEQUENTLY, BETWEEN JULY 20 AND 23, 1984, THE INDIVIDUAL CASHED SIX CHECKS WITH DIFFERENT CASHIERS AT VARIOUS LOCATIONS WITHIN THE 106TH AREA FINANCE SUPPORT CENTER IN THE STUTTGART-HEILBRONN AREA. THE AMOUNT CASHED TOTALLED $2,950: FIVE OF THE CHECKS WERE FOR $495 AND ONE FOR $475. THE FACTS DO NOT SHOW

WHICH CASHIERS CASHED WHICH CHECKS.

THE CHECK CASHING PROCEDURES IN FORCE FOR CASHING PERSONAL CHECKS REQUIRED CASHIERS TO ASSURE THAT CHECKS CONTAIN THE PAYEE'S NAME, RANK, SOCIAL SECURITY NUMBER, OVERSEAS UNIT AND TELEPHONE NUMBER. THE MAXIMUM AMOUNT FOR WHICH PERSONAL CHECKS COULD BE CASHED WAS $495. FOR OTHER THAN PERSONAL CHECKS CASHIERS WERE REQUIRED TO HAVE PAYEES ENDORSE THE CHECKS AND TO SHOW VALID ID CARDS.

THE FACTS SUGGEST THAT EXCEPT FOR NOT ASCERTAINING THE PAYEE'S UNIT TELEPHONE NUMBER, THE CASHIERS EXCEEDED THE REQUIRED PROCEDURES FOR CASHING PERSONAL CHECKS. THUS, ASIDE FROM OBTAINING THE REQUIRED INFORMATION, THE CASHIERS ALL REQUIRED THAT ID CARDS BE PRESENTED, ALL LOOKED AT THE DISHONORED CHECK LIST TO INSURE ABSENCE OF THE PAYEE'S NAME, AND MOST COMPARED THE SIGNATURE ON THE CARD AND THE ID PHOTO WITH THE SIGNATURE ON THE CHECK AND THE APPEARANCE OF THE PAYEE.

AN ARMY INVESTIGATION WAS UNDERTAKEN AND COMPLETED IN JANUARY 1985. THE INVESTIGATION CONCLUDED THAT LTC ROGERS HAD ESTABLISHED AND MAINTAINED AN ADEQUATE SYSTEM OF CONTROLS TO SAFEGUARD THE FUNDS FOR WHICH HE WAS ACCOUNTABLE AND THAT THE CASHIERS HAD FOLLOWED THAT POLICY. THE INVESTIGATION WAS UNABLE TO IDENTIFY THE OFFENDER.

BASED ON THE ABOVE, YOU CONCLUDE THAT THE IMPROPER PAYMENTS APPEAR TO HAVE BEEN THE RESULT OF SKILLFULLY EXECUTED CRIMINAL ACTIVITY OVER WHICH NEITHER LTC ROGERS NOR THE CASHIERS HAD ANY CONTROL. ACCORDINGLY, YOU FIND THAT THE PAYMENTS WERE NOT THE RESULT OF BAD FAITH OR LACK OF REASONABLE CARE OF LTC ROGERS OR THE CASHIERS, AND, UNDER SECTION 3527(C) OF TITLE 31 OF THE UNITED STATES CODE REQUEST RELIEF FOR THESE INDIVIDUALS.

WE AGREE THAT THE IMPROPER PAYMENTS HERE WERE THE RESULT OF CRIMINAL ACTIVITY OVER WHICH LTC ROGERS AND THE NAMED CASHIERS HAD NO CONTROL. THE OFFENDER WAS ABLE TO CASH FORGED CHECKS WITH FIVE DIFFERENT CASHIERS EACH OF WHOM CHECKED HIS ID CARD, AND NONE OF WHOM NOTED ANY DISCREPANCY BETWEEN THE OFFENDER AND THE ID PICTURE OR BETWEEN THE ID SIGNATURE AND THAT ON THE CHECK BEING CASHED. FURTHERMORE, THE ACTIONS OF THE CASHIERS GENERALLY EXCEEDED THE REQUIRED OFFICE PROCEDURES. WE DO NOT THINK IT CRITICAL THAT MOST OF THE CASHIERS FAILED TO NOTE THE PAYEE'S UNIT PHONE NUMBER. IN THIS INSTANCE THAT OMISSION HAD NOTHING TO DO WITH THE LOSS. ACCORDINGLY, WE GRANT RELIEF TO LTC ROGERS AND THE CASHIERS NAMED ABOVE FOR THE $2,950 LOSS.

WE DISAGREE, HOWEVER, WITH THE CONCLUSION THAT THE PROCEDURES ESTABLISHED BY LTC ROGERS FOR CASHING PERSONAL CHECKS WERE SUFFICIENT. THOSE PROCEDURES DO NOT REQUIRE ID CARDS TO BE CHECKED. WE THINK ID PRESENTATION IS AN IMPORTANT SAFEGUARD EVEN WHEN CASHING PERSONAL CHECKS. ALTHOUGH IT MADE NO DIFFERENCE HERE BECAUSE THE CASHIERS CHECKED THE ID ON THEIR OWN INITIATIVE, IN OTHER INSTANCES ID VERIFICATION COULD WELL PREVENT IMPROPER CHECK CASHING. FURTHERMORE, WE DO NOT THINK THE AMOUNT OF TIME REQUIRED TO MAKE ID CHECKS WOULD SLOW DOWN THE CHECK CASHING PROCESS TO AN UNREASONABLE EXTENT. THE FACTS SHOW THAT ID CARDS ARE USUALLY CHECKED ANYWAY SO WE SUGGEST THAT THIS SAFEGUARD BE ADDED TO THE REQUIRED PROCEDURES.

ONE FURTHER RECOMMENDATION WE MAKE IS THAT, TO THE EXTENT PRACTICAL, WHEN THE INFORMATION IS AVAILABLE TO MILITARY AUTHORITIES, CASHIERS BE PROVIDED A LIST OF NAMES OF PERSONS WHO HAVE HAD THEIR ID CARDS LOST OR STOLEN. CASHIERS COULD THEN

CHECK THE NAMES OF PAYEES AGAINST THIS LIST AS THEY DO AGAINST THE DISHONORED CHECK LIST. IF THIS PROCEDURE HAD BEEN FOLLOWED HERE, IT IS POSSIBLE THAT THE CHECKS WOULD NOT HAVE BEEN CASHED AND THE OFFENDER APPREHENDED.

YOU INDICATE THAT THE IDENTITY OF THE FORGER HAS NOT BEEN ESTABLISHED AND THUS COLLECTION ACTION HAS NOT BEEN POSSIBLE. WE AGREE THAT IF THE OFFENDER IS SUBSEQUENTLY IDENTIFIED YOU SHOULD DILIGENTLY PURSUE COLLECTION. 31 U.S.C. SEC. 3527(D)(2)(B).