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[Request for Relief From Liability for Army Finance and Accounting Officers]

Number: B-224961

Date: 1987-09-08

B-224961, Sep 8, 1987, Office of General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Certifying officers - Relief - Illegal/improper payments - Overpayments DIGEST: 1. Relief granted to finance and accounting officers for loss due to improper payment of active duty pay to individual who had been discharged. Both officers maintained and implemented an adequate system of procedures and controls. Initial filing error appears to be the type of clerical error which will occur even in a well-supervised office. Subsequent failures in the established safeguard system occurred beyond the control of the Finance and Accounting Officers. APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Illegal/improper payments - Liability restrictions - Compromises 2. Personal pecuniary liability of a Finance and Accounting Officer is limited pursuant to 31 U.S.C. 3711(d) which provides that an accountable officer is not liable for an amount paid if the amount is not recovered because of a compromise.

Brigadier General B. W. Hall:

This responds to your request of October 7, 1986, that we relieve Maj. D. E. Wallace and his predecessor, Maj. R. A. Arteaga, Finance and Accounting Officers, 27th Finance Company, Fort Hood Texas, under 31 U.S.C. Sec. 3527(c) for six improper payments totaling $6,481.39, reduced by plea agreement to $5,776.93. These improper payments began sometime before Maj. Wallace replaced Maj. Arteaga and continued during the time Maj. Wallace was the Finance and Accounting Officer.

The improper payments involved six checks paid to Sp.4 Teresa E. King who was discharged on April 5, 1985, but continued to receive active duty pay through September 30, 1985. These payments resulted from an absence of information concerning Sp.4 King's separation in her finance files and the subsequent failure of procedural safeguards that would have prompted discovery of the omission in the files. We grant relief to both Finance and Accounting Officers because they both maintained and enforced adequate procedures and controls to avoid errors.

BACKGROUND

Sp.4 King enlisted in the U.S. Army for a term of 3 years on April 6, 1982. In August of 1983 she requested and received a 2-year extension which was posted to both her personnel and finance records. Later she requested that her extension be canceled and her original separation date of April 5, 1985, be restored. The request was approved, but apparently not noted in either her personnel or finance records. In any event, Sp.4 King's Company, the 546th Personnel Service

Company (546th PSC), issued orders in anticipation of Sp.4 King's separation. At the time of her outprocessing, the omission of information was detected in her personnel file and the approved cancellation request was noted in personnel records by January 23, 1985. The finance records contained no such information, but it is not clear whether such information was noted in Sp.4 King's personnel file only or whether a later re-enlistment action by another individual was mistakenly entered in the finance file, negating the cancellation of the extension. Sp.4 King was processed for separation on February 12, 1985 and departed on a 50- day terminal leave status. September 16, 1985, Sfc. Walter Teal of the 27th Finance Company received a call from S. Sgt. Arnold L. Buchanon, who informed Sfc. Teal that he had heard rumors that a Teresa E. King was receiving Army pay although separated from active duty. After looking into the matter, Sfc. Teal found the rumored information to be true and reported his findings to his supervisors. Maj. Wallace was notified and by September 30 he had frozen Sp.4 King's bank account where the pay checks were being directly deposited. On October 3, Maj. Wallace notified the Finance Center of the irregularity and started an investigation. Maj. Wallace immediately initiated steps to recover the improper payments. As he was unsuccessful, he referred the matter to the Collections Division.

Sp.4 King was convicted of fraudulently converting government money in U.S. District Court, sentenced to 5- years supervised probation, and pursuant to a plea agreement, ordered to make restitution in the amount of $5,776.93 to the United States Government. The Finance and Accounting Officers are subject to personal pecuniary liability for only this amount and not the full amount of $6,481.39, pursuant to 31 U.S.C. Sec. 3711(d), which provides that an accountable officer is not liable for an amount paid if the amount is not recovered because of a compromise. 65 Comp.Gen. 371, 373 (1986).

Under 31 U.S.C. Sec. 3527(c) (1982), this Office has the authority to relieve a disbursing official from liability for an improper payment when the improper payment was not the result of bad faith or lack of reasonable care by the official. The good faith and reasonable care of a supervisory disbursing official is shown by evidence that the supervisor maintained adequate procedures and controls to avoid errors and that the supervisor took steps to implement these controls. B-223285, August 28, 1986.

There were three failures in the system that led to the incorrect payments, none of which were the proximate result of bad faith or lack of due care by these two officials. The initial failure was a filing error by a subordinate that appears to be the type of clerical error which will occasionally occur, unnoticed, in even a well-supervised office. The double-check and verification procedures in place for posting information in the finance files would have been adequate had they been followed in this instance. A disbursing official cannot be expected to design a system which reliably eliminates every clerical error that may occur. B-212336, August 8, 1983.

The other two safeguard system failures were beyond the control of these accountable officers. One of these failures was a temporarily inoperative computer system used by the Finance Center and the Enlisted Personnel Records Center. The other failure was an inexperienced personnel clerk who did not return the unclaimed LES's of Sp.4 King to the 27th Finance Company. Neither of these failures were subject to the control of these officials. Accordingly, relief is granted to both Maj. Wallace and Maj. Arteaga.