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[Request for Relief for Army Finance Officer and Cashier]

Number: B-226174

Date: 1987-06-18

B-226174, JUN 18, 1987, OFFICE OF GENERAL COUNSEL

APPROPRIATIONS/FINANCIAL MANAGEMENT - ACCOUNTABLE OFFICERS - CASHIERS - RELIEF - ILLEGAL/IMPROPER PAYMENTS - FORGERIES APPROPRIATIONS/FINANCIAL MANAGEMENT - ACCOUNTABLE OFFICERS - DISBURSING OFFICERS - RELIEF - ILLEGAL/IMPROPER PAYMENTS - FORGERIES DIGEST: U.S. ARMY FINANCE AND ACCOUNTING OFFICER IS RELIEVED OF LIABILITY FOR IMPROPER PAYMENT MADE BY SUBORDINATE CASHIER SINCE HE MAINTAINED AND SUPERVISED ADEQUATE SYSTEM OF PROCEDURES TO PREVENT IMPROPER PAYMENTS. CASHIER IS ALSO RELIEVED SINCE SHE FOLLOWED ALL EXISTING PROCEDURES ALTHOUGH SUCH PROCEDURES WERE CIRCUMVENTED BY PAYEE WHO PERPETRATED A CRIMINAL SCHEME TO OBTAIN FUNDS.

BRIGADIER GENERAL B. W. HALL:

THIS RESPONDS TO YOUR LETTER OF JANUARY 23, 1987, REQUESTING THAT WE GRANT RELIEF TO LIEUTENANT COLONEL (LTC) T. J. ANDERSON, FINANCE OFFICER, 175TH FINANCE AND ACCOUNTING OFFICE, DSSN 6411 AND MS. KIL YO KIM, A CASHIER UNDER LTC ANDERSON'S SUPERVISION, FOR AN IMPROPER PAYMENT OF $505. FOR THE REASONS STATED BELOW, RELIEF IS GRANTED TO BOTH LTC ANDERSON AND MS. KIM.

ON APRIL 17, 1986, AN INDIVIDUAL PURPORTING TO BE STAFF SERGEANT (SSG) JOE E. BOYLAN, ENTERED THE 175TH DIVISION FINANCE AND ACCOUNTING OFFICE IN YONGSAN, KOREA, PRESENTED AN APPARENTLY VALID MILITARY IDENTIFICATION CARD, A LEAVE AUTHORIZATION REQUEST AND A RECORD OF LOCAL PAYMENT FORM AND REQUESTED A CASUAL PAYMENT FOR HIS APRIL 1986 MID-MONTH PAY.

THE AUTHORIZING OFFICER, L. M. LENINSKY, REVIEWED THE DOCUMENTS PRESENTED, AND REVIEWED THE DESERTER MICROFICHE AND AWOL DESERTER FILE. FINDING NOTHING IRREGULAR, HE AUTHORIZED THE PAYMENT. MS. KIM THEN MADE A CASUAL PAYMENT OF $505 AFTER VERIFYING THAT THE PAYMENT WAS PROPERLY CERTIFIED AND CHECKING THE IDENTIFICATION OF THE PERSON PURPORTING TO BE SSG BOYLAN.

SUBSEQUENT INVESTIGATION REVEALED THAT THE INDIVIDUAL IN QUESTION, A CIVILIAN NAMED KENNETH M. SIMMONS, HAD USED SEVERAL ALIASES INCLUDING SSG BOYLAN TO OBTAIN CASUAL PAYMENTS AT MILITARY INSTALLATIONS THROUGHOUT KOREA. DURING HIS LAST ATTEMPT AT KUNSAN AIR BASE, MR. SIMMONS WAS APPREHENDED BY AIR FORCE AUTHORITIES. HE WAS SUBSEQUENTLY TURNED OVER TO THE KOREAN POLICE AFTER IT WAS DISCOVERED THAT HE WAS A CIVILIAN. THE KOREAN GOVERNMENT ULTIMATELY DEPORTED HIM AND, UPON HIS ARRIVAL IN THE UNITED STATES HIS WHEREABOUTS BECAME UNKNOWN. CONSEQUENTLY, NO COLLECTION ACTION HAS BEEN PURSUED AGAINST MR. SIMMONS.

THIS OFFICE HAS AUTHORITY UNDER 31 U.S.C. SEC. 3527(C) TO RELIEVE A DISBURSING OFFICER FROM LIABILITY FOR A DEFICIENCY RESULTING FROM AN IMPROPER PAYMENT IF WE

DETERMINE "THAT THE PAYMENT WAS NOT THE RESULT OF BAD FAITH OR LACK OF REASONABLE CARE BY THE OFFICIAL."

IN CASES WHERE A SUBORDINATE ACTUALLY DISBURSES FUNDS RATHER THAN THE DISBURSING OFFICER HIMSELF, WE HAVE GRANTED RELIEF UPON A SHOWING THAT THE DISBURSING OFFICER PROPERLY SUPERVISED HIS SUBORDINATES BY MAINTAINING AN ADEQUATE SYSTEM OF PROCEDURES AND CONTROLS TO SAFEGUARD THE FUNDS, AND TOOK STEPS TO SEE THAT THE SYSTEM WAS EFFECTIVE AND BEING FOLLOWED. SEE E.G., B-217637, MARCH 18, 1985.

THE RECORD, INCLUDING THE INVESTIGATION OF THE LOSS, INDICATES THAT PROPER PROCEDURES WERE IN EFFECT AT THE TIME THE LOSS OCCURRED AND THAT LTC ANDERSON MAINTAINED ADEQUATE PROCEDURES AND CONTROLS TO SAFEGUARD THE FUNDS FOR WHICH HE WAS ACCOUNTABLE. THE IMPROPER PAYMENT WAS THE RESULT OF SKILLFULLY EXECUTED CRIMINAL ACTIVITY. EVEN THE MOST CAREFULLY ESTABLISHED AND EFFECTIVELY SUPERVISED SYSTEM CANNOT PREVENT EVERY CONCEIVABLE FORM OF CRIMINAL ACTIVITY. ID.

MS. KIM MADE THE PAYMENT IN THIS CASE BASED ON THE DOCUMENTATION PRESENTED TO HER AFTER SHE COMPLIED WITH STANDARD OPERATING PROCEDURES. NOTHING IN THE RECORD SUGGESTS THAT MS. KIM SHOULD HAVE BEEN AWARE OF THE FRAUD BEING PERPETRATED.

WE CONCUR THAT THIS IMPROPER PAYMENT WAS NOT THE RESULT OF BAD FAITH OR LACK OF REASONABLE CARE ON THE PART OF EITHER LTC ANDERSON OR MS. KIM. ACCORDINGLY, RELIEF IS GRANTED. IN DOING SO, WE RECOGNIZE THAT COLLECTION ACTION HAS BEEN PRECLUDED DUE TO THE FACT THAT MR. SIMMONS' WHEREABOUTS ARE UNKNOWN. WE ANTICIPATE THAT AGGRESSIVE COLLECTION ACTION WILL BE TAKEN IF AND WHEN HE IS FOUND.