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[Request for Indebtedness Waiver for Navy Disbursing Officer]

Number: B-226393

Date: 1987-07-02

B-226393, Jul 2, 1987, Office of General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Disbursing officers - Illegal/improper payments - Liability restrictions - Statutes of limitation APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Liability - Statutes of limitation - Effective dates - Illegal/improper payments DIGEST: Since the 3-year statute of limitations, set forth in section 3526(c) of title 31 of the U.S.C. governing this Office's disposition of accountable officer relief requests has run, there is no longer a need for us to grant relief to Navy disbursing officer for a $1,421.29 loss resulting from improper payments. In forged Treasury check cases, the 3-year period of limitation begins to run when the agency first receives the Treasury's debit voucher informing them about the loss.

The Honorable Chase Untermeyer:

This responds to your letter of February 24, 1987 requesting that we relieve Lieutenant (LT) W. J. Roberts, Supply Corps, former disbursing officer aboard the U.S.S. John Fitzgerald Kennedy (USS JFK) for improper payments totaling $1,421.29, under the provisions of 31 U.S.C. Sec. 3527(c) (1982). For the reasons stated below, the account in question must be regarded as settled by operation of law and there is no longer a need for us to grant relief.

The loss in this case involves the fraudulent negotiation of five Treasury checks aboard the USS JFK. These checks represent only part of a larger loss sustained aboard the ship. During the time period September 1, 1981 to September 15, 1983, some 20 Treasury checks were fraudulently negotiated. LT Roberts was disbursing officer from September 1, 1981 to March 31, 1982. As previously noted, during LT Roberts' assignment, five of the 20 checks were fraudulently negotiated. The dates of the checks, along with the dates that the Treasury issued debit vouchers and the checks' amounts are as follows:

DATE OF CHECK DATE OF DEBIT VOUCHER AMOUNT

11/3/81 4/14/82 $ 282.00

1/15/82 8/19/82 201.00

1/30/82 4/5/84 313.00

1/30/82 1/5/83 245.00

3/12/82 3/8/84 380.29

$1,421.29

Our Office has consistently held that once the 3-year statutory period stated in 31 U.S.C. Sec. 3526(c) (1982) has expired, the account in question must be considered settled by operation of law and the accountable officer immune from liability for an erroneous payment. Comp.Gen. 91, 98 (1983). Additionally, we have concluded that the time period in forged Treasury check cases begins to run when the Treasury provides the agency with a debit voucher, thus notifying the agency of the loss. Id., B-222392, November 12, 1986. Finally, we have held that the 3 -year period is not tolled by the agency's timely request for relief. Comp.Gen. 91, 98 (1983); B-220689, September 24, 1986.

In this case, the debit voucher from the Treasury which is last in time is dated April 5, 1984. Although we received the agency's request on March 2, 1987, more than 3 years have elapsed since April 1984. Accordingly, there is no longer a need for us to grant relief.

We therefore conclude that the account of LT Roberts was settled by operation of law in this case, the 3-year statute of limitation period having expired in April 1987. In addition, the liability of any of LT Roberts' subordinates that might be accountable is foreclosed for the same reason. There is, therefore, no need for us to either grant or deny relief.

We note that we have asked agencies to request relief approximately 1 year before the 3-year period expires in order to give us an opportunity to adequately consider requests for relief. 7 GAO Policy and Procedures Manual Sec. 28.14. In this case, three of the five check losses had already been settled by operation of law when your request was mailed, one became settled a week after we received your request and the last just over a month after receipt. Where, as in this case, there appears to be no identified persons against whom collection action be taken, other than accountable officers, we think the loss should be reported and relief requested at the earliest feasible time.