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[Request for Relief for Army Finance and Accounting Officer]

Number: B-226769

Date: 1987-07-29

B-226769, Jul 29, 1987, Office of General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Disbursing officers - Relief - Illegal/improper payments - Substitute checks DIGEST: 1. Relief is granted Army disbursing official under 31 U.S.C. 3527(c) from liability for improper payment caused when a subordinate issued a substitute check for the wrong amount after he referred to the wrong record of the original check. Despite absence of evidence in the record that the disbursing official supervised his subordinate by maintaining an adequate system of procedures and controls to safeguard government funds and took steps to see that such a system was being effectively implemented, the error by the subordinate appears to be the subordinate's and not the result of bad faith or lack of reasonable care by the supervisor. APPROPRIATION/FINANCIAL MANAGEMENT - Accountable Officers - Disbursing officers - Liability - Illegal/improper payments 2. A subordinate who had authority to issue checks using a finance officer's signature stamp and who did, in fact, issue the erroneous payment in question is also financially liable for the loss along with the person in whose name the account is officially held at the time the wrongful payment is made.

Brigadier General B.W. Hall:

This responds to your request of April 2, 1987, that we relieve Lieutenant Colonel (Lt. Col) R.C. Lee, Finance Corps, DSSN 5008, Finance and Accounting Officer, 1st Infantry Division (MECH) and Fort Riley, Fort Riley, Kansas, under 31 U.S.C. Sec. 3527(c) for an improper payment of a $484.69 check payable to Mr. Wendell H. Duvernay. The amount of $434.43 has been credited against this loss, leaving an unpaid balance of $50.27. As explained below, we grant the request for relief.

According to your submission, on July 19, 1983, Mr. Duvernay claimed non-receipt of United States Treasury check number 07,474,339, dated July 14, 1983. This check was in the amount of $434.42. The Chief of Disbursing at the time researched the missing check number and used the check listing for the wrong pay period. Therefore, instead of placing a stop payment request and issuing a substitute check for the instrument requested, a stop payment was placed on, and a substitute issued for, United States Treasury check number 07,467,138, dated June 16, 1983, in the amount of $484.69. When it was discovered that the stop payment had been placed on the wrong check, a stop payment was placed on the correct check. Subsequently, a credit of $434.42 was applied to the overpayment, reducing the debt to $50.27. As of May 1, 1987, check number 07,474,339, the check for which the substitute was requested, was still outstanding.

Generally, a disbursing official who is officially responsible for an account,

is liable for his subordinate's improper payments out of that account. 62 Comp.Gen. 476, 480 (1983). Under 31 U.S.C. Sec. 3527(c), this Office will if relieve a finance officer for a loss due to a subordinate's actions upon a showing that the finance officer maintained an adequate system of procedures and controls to avoid errors and took steps to ensure the system's implementation and effectiveness. Id.

We have been informally advised that at the time of the loss, written Standard Operating Procedures (SOPs) governing substitute checks were in effect. However, a copy of these SOPs no longer exists and no one is certain exactly what the procedures required. In addition to the lack of SOPs, there are also a number of documents missing from the record. For example, the finance and accounting office no longer has a copy of either the debit or journal vouchers.

Despite the lack of records, we think the loss in this case was not the result of inadequate supervision. The loss seems to be the result of a simple error that was cause by carelessness or inattention by a subordinate. This error would be difficult to ascribe to a supervisory failure to transmit the requirements of the job. The nature of the error shows that the Chief of Disbursing knew what was supposed to be done. While this does not provide affirmative evidence of the kind of supervision that was provided, given the lapse of time, the unavailability of records and the amount of the loss involved, we think the circumstances of this loss are enough to indicate to us that the loss was not the result of bad faith or lack of reasonable care on the part of Lt. Col. Lee. Accordingly, we grant him relief.

We note that your request was only for relief on behalf of Lt. Col. Lee. However, in this case we have been informed, the Chief of Disbursing had authority to issue checks using the finance officer's signature stamp and did, in fact, issue the erroneous payment. The Chief of Disbursing at the time of the loss would appear to be financially liable for the loss as a disbursing official.

Finally, although we have granted relief to Lt. Col. Lee, we do not believe that the Army's collection procedures taken together meets the diligent claims collection requirements of 31 U.S.C. Sec. 3527(c). The submission did not indicate when the finance office received the debit voucher. Nevertheless, since the loss was recorded in Lt. Col. Lee's statement of accountability for May 1985 we assume that the notice of loss was received around the same time period. The matter, however, was not referred to your Collection Division until August 12, 1986. As we have previously indicated to you, for cases involving notices of loss received after June 1, 1986, we will no longer grant relief if Army delays more than 3 months in forwarding the debt to your Collection Division. However, since the notice of loss in this case was received prior to that date, we will not deny relief here.