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B-226911, Oct 19, 1987, Office of General Counsel

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B-226911, Oct 19, 1987, Office of General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Cashiers - Relief - Illegal/Improper Payments - Forgeries DIGEST: Relief is granted to Veterans Administration agent cashier who deposited an altered U.S. Treasury check into a patient's personal account which resulted in an improper payment from the account. Agent cashier followed procedures and there was no indication that she had not exercised reasonable care in examining the check which was expertly altered. Unnamed cashiers who actually made the payments are relieved of liability as well since there was no reason for these cashiers to be suspicious of the fraudulent nature of the transactions and therefore prevent the improper payment.

Mr. Hoffman:

This replies to your April 27, 1987, request that we grant relief under 31 U.S.C. Sec. 3527(c) to Ms. Betty Ryskowski, Agent Cashier, Veterans Administration (VA), West Los Angeles Medical Center, for an improper payment resulting from the deposit and subsequent withdrawal of an altered U.S. Treasury check into a patient's hospital account. For the reasons stated below, we grant the requested relief. On August 27, 1986, inpatient Marvin Young at the VA's West Los Angeles Medical Center presented a U.S. Treasury check to agent cashier Betty Ryskowski for deposit into a patient account. Mr. Young's account was credited with $879, which Mr. Young subsequently withdrew in four payments by the time of his discharge on September 4, 1986. The Treasury check dated July 15, 1986, was originally issued for $279 but had been altered by Mr. Young to read $879. Treasury discovered the alteration and declined payment on the check. Treasury issued a debit voucher to the Medical Center on December 7, 1986.

On December 9, 1986, the VA sent a collection letter to the last known address of Mr. Young. At the same time, the VA Regional Office of Investigations was contacted which referred the matter over to the Secret Service for investigation. According to the record, there is no doubt that the check was altered by Mr. Young. Your assumption that the loss should be considered the full amount of the altered check is apparently based on a Treasury Regulation and an interpretation of 27 Comp.Gen. 674 (1978). However, both the Regulation and the case were concerned with the negotiability of an altered instrument and did not discuss the validity of the underlying debt or the impact of the alteration on an accountable officer's account balance. Therefore, because the Government did actually owe Mr. Young the $279, the loss here should not be considered the full amount of the check as altered but only the $600 alteration increase. See 62 Comp.Gen. 617 (1983).

As the agent cashier responsible for depositing the altered Treasury check, Ms. Ryskowski is personally liable for the deficiency in her account caused by the improper payments which resulted from the fraudulent deposit. This Office is authorized to grant relief from liability under 31 U.S.C. Sec. 3527(c) upon a determination that an improper payment was not the result of bad faith or lack of reasonable care by the official. B-228859, September 11, 1987. It is apparent from the record that Ms. Ryskowski complied with all the procedures and controls in the acceptance of the Treasury check for deposit to Mr. Young's patient account. These procedures included requiring identification from the depositor and thoroughly examining the validity of the check. The alteration was apparently expertly done and as such, the improper payment was largely the result of criminal activity. Therefore, since there is no indication that Ms. Ryskowski did not exercise reasonable care in receiving the check for deposit, relief is granted.

Although the submission does not indicate whether cashiers other than Ms. Ryskowski actually made the four payments out of Mr. Young's account, these individuals would be liable as well. We grant relief to these unnamed individuals since there is no indication that at this stage proper procedures were not followed. And furthermore, because the fraud was effectuated at the time of the deposit, even the effective carrying out of such procedures would not have prevented this improper payment. There was no reason for these cashiers to be suspicious of the fraudulent nature of the transactions. See, e.g., B-227079, October 28, 1986. You indicate that collection action initiated against Mr. Young has not been successful and that his whereabouts is currently unknown. We acknowledge your commitment to continue collection activity once Mr. Young is located.