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B-227187, Jun 16, 1987, Office of General Counsel

Number: B-227187

Date: 1987-06-16

B-227187, JUN 16, 1987, OFFICE OF GENERAL COUNSEL

APPROPRIATIONS/FINANCIAL MANAGEMENT - ACCOUNTABLE OFFICERS - DISBURSING OFFICERS - RELIEF - ILLEGAL/IMPROPER PAYMENTS - SUBSTITUTE CHECKS DIGEST: RELIEF IS GRANTED ARMY DISBURSING OFFICIAL UNDER 31 U.S.C. 3527(C) FROM LIABILITY FOR TWO IMPROPER PAYMENTS RESULTING FROM PAYEE'S NEGOTIATION OF BOTH ORIGINAL AND SUBSTITUTE MILITARY CHECKS. PROPER PROCEDURES WERE FOLLOWED IN THE ISSUANCE OF THE SUBSTITUTE CHECKS, THERE WAS NO INDICATION OF BAD FAITH ON THE PART OF THE DISBURSING OFFICIAL AND SUBSEQUENT COLLECTION ATTEMPTS ARE BEING PURSUED. HOWEVER, FOR CASES INVOLVING NOTICES OF LOSSES RECEIVED AFTER JUNE 1, 1986, WE WILL DENY RELIEF IF ARMY DELAYS MORE THAN 3 MONTHS IN FORWARDING THE DEBT TO ARMY'S COLLECTION DIVISION.

BRIGADIER GENERAL B. W. HALL:

THIS RESPONDS TO YOUR REQUEST OF APRIL 28, 1987, THAT WE RELIEVE CAPTAIN (CPT) B. T. TYSON, FINANCE CORPS, DSSN 6520, FINANCE AND ACCOUNTING OFFICER, NEW CUMBERLAND ARMY DEPOT, NEW CUMBERLAND, PENNSYLVANIA, UNDER 31 U.S.C. SEC. 3527(C), FOR TWO IMPROPER PAYMENTS TOTALING $550.98 PAYABLE TO MR. DAVID S. CLAIBORN, III.

THE LOSSES IN THESE CASES RESULTED WHEN THE SAME PAYEE NEGOTIATED BOTH THE ORIGINAL AND A SUBSTITUTE CHECK ON TWO SEPARATE OCCASIONS. IN EACH CASE, BOTH CHECKS WERE IN THE SAME AMOUNT. THE SUBSTITUTE CHECKS WERE ISSUED ON THE BASIS OF THE PAYEE'S ALLEGATIONS THAT THE ORIGINAL CHECKS HAD NOT BEEN RECEIVED AND REQUESTS FOR STOP PAYMENT HAD BEEN MADE. ALL OF THE CHECKS WERE ISSUED BY THE ARMY UNDER AUTHORITY DELEGATED BY THE DEPARTMENT OF THE TREASURY. 31 C.F.R. SEC. 245.8.

IT APPEARS THAT THE REQUEST FOR STOP PAYMENT AND THE ISSUANCE OF THE SUBSTITUTE CHECKS IN BOTH INSTANCES WERE WITHIN THE BOUNDS OF DUE CARE AS ESTABLISHED BY ARMY REGULATIONS. SEE AR 37-103, PARAS. 4-161, 1-162 AND 4 -164. THERE WAS NO INDICATION OF BAD FAITH ON THE PART OF THE DISBURSING OFFICER AND IT APPEARS THAT ADEQUATE COLLECTION EFFORTS ARE NOW BEING MADE. ACCORDINGLY, WE GRANT RELIEF.

ALTHOUGH WE HAVE GRANTED RELIEF, WE ARE CONCERNED WITH THE COLLECTION ACTIONS TAKEN FOLLOWING THESE TWO OVERPAYMENTS.

ONCE THE DEBIT VOUCHERS WERE RECEIVED FROM TREASURY, IT WAS ALMOST 17 MONTHS IN ONE INSTANCE AND OVER 20 MONTHS IN THE OTHER CASE, BEFORE THE LOSSES WERE REFERRED TO YOUR COLLECTION DIVISION. AS WE PREVIOUSLY INDICATED TO YOU, FOR CASES INVOLVING NOTICES OF LOSSES RECEIVED AFTER JUNE 1, 1986, WHERE THE PAYEE

HAS LEFT THE ARMY OR ITS EMPLOY, WE WILL NO LONGER GRANT RELIEF IF ARMY DELAYS MORE THAN 3 MONTHS IN FORWARDING THE DEBT TO YOU COLLECTION DIVISION. HOWEVER, SINCE THE DEBIT VOUCHERS INVOLVED IN THESE CASES WERE RECEIVED PRIOR TO THAT DATE, WE WILL NOT DENY RELIEF HERE.