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[Request for Relief for DLA Accounting and Finance Officer]

Number: B-227218

Date: 1987-06-05

B-227218, JUN 5, 1987, OFFICE OF GENERAL COUNSEL

APPROPRIATIONS/FINANCIAL MANAGEMENT - ACCOUNTABLE OFFICERS - DISBURSING OFFICERS - RELIEF - ILLEGAL/IMPROPER PAYMENTS - SUBSTITUTE CHECKS DIGEST: RELIEF IS GRANTED DLA DISBURSING OFFICIAL UNDER 31 U.S.C. 3527(C) FROM LIABILITY FOR IMPROPER PAYMENT RESULTING FROM PAYEE'S NEGOTIATION OF BOTH ORIGINAL AND RECERTIFIED CHECKS. PROPER PROCEDURES WERE FOLLOWED IN THE ISSUANCE OF THE RECERTIFIED CHECK, 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 NOTICE OF LOSSES RECEIVED AFTER JUNE 1, 1986, WE WILL DENY RELIEF IF THERE IS A DELAY OF MORE THAN 3 MONTHS IN FORWARDING THE DEBT TO THE COLLECTION DIVISION.

PETER H. TOVAR, CHIEF, ACCOUNTING & FINANCE DIVISION, OFFICE OF COMPTROLLER:

THIS RESPONDS TO YOUR REQUEST OF MAY 6, 1987, THAT WE RELIEVE MS. ELLEN J. TARRAN, DSSN 5287, ACCOUNTING AND FINANCE OFFICER, DEFENSE DEPOT OGDEN, UTAH, UNDER 31 U.S.C. SEC. 3527(C), FOR AN IMPROPER PAYMENT OF A $566.50 CHECK PAYABLE TO MR. RANDY L. THOMAS. FOR THE REASONS STATED BELOW, RELIEF IS GRANTED.

THE LOSS RESULTED WHEN THE PAYEE NEGOTIATED BOTH THE ORIGINAL AND A RECERTIFIED CHECK. BOTH CHECKS WERE IN THE SAME AMOUNT. THE RECERTIFIED CHECK WAS ISSUED ON THE BASIS OF THE PAYEE'S ALLEGATION THAT THE ORIGINAL CHECK HAD NOT BEEN RECEIVED AND A REQUEST FOR STOP PAYMENT HAD BEEN MADE. BOTH CHECKS WERE ISSUED BY THE DEFENSE LOGISTICS AGENCY UNDER AUTHORITY DELEGATED BY THE DEPARTMENT OF THE TREASURY. 31 C.F.R. SEC. 245.8 AND TREASURY FISCAL REQUIREMENTS MANUAL NO. 83-28. SEE ALSO, DEPARTMENT OF DEFENSE DIRECTIVE NO. 105.22, AUGUST 15, 1986.

IT APPEARS THAT THE ISSUANCE OF A RECERTIFIED CHECK IN THIS CASE WAS WITHIN THE BOUNDS OF DUE CARE. ID. THERE WAS NO INDICATION OF BAD FAITH ON THE PART OF THE DISBURSING OFFICER AND ADEQUATE COLLECTION EFFORTS ARE BEING MADE. ACCORDINGLY, WE GRANT RELIEF.

ALTHOUGH WE HAVE GRANTED RELIEF TO THE DISBURSING OFFICER HERE, WE DO NOT FIND THAT THE COLLECTION PROCEDURES IN THIS CASE MEET THE DILIGENT COLLECTION REQUIREMENTS OF 31 U.S.C. SEC. 3527(C). ONCE THE CHARGEBACK WAS RECEIVED FROM TREASURY, IT TOOK OVER 27 MONTHS TO REFER THE LOSS TO YOUR DESIGNATED COLLECTION AGENT. GAO HAS DETERMINED THAT THE DILIGENT COLLECTION STANDARD REQUIRES THAT A LOSS BE REFERRED TO YOUR COLLECTION DIVISION WITHIN 3 MONTHS FROM THE TIME THAT TREASURY NOTIFIES YOU THAT A LOSS HAS OCCURRED. HOWEVER, WE HAVE AGREED NOT TO INSTITUTE THIS REQUIREMENT FOR CASES INVOLVING NOTICES OF LOSSES RECEIVED BEFORE JUNE 1, 1986. SINCE THE CHARGEBACK FROM TREASURY WAS RECEIVED PRIOR TO THAT DATE, WE WILL NOT DENY RELIEF HERE.