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[Request for Relief From Liability for Army Finance and Accounting Officer]

Number: B-227410

Date: 1987-08-18

B-227410, Aug 18, 1987, Office of General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Certifying officers - Relief - Illegal/improper payments - Overpayments APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Disbursing officers - Relief - Illegal/improper payments - Overpayments DIGEST: Relief granted to finance and accounting officers for loss due to overpayment on contract. Deputy finance officer acted reasonably in relying on information given to her which though erroneous, could not have been detected by her. Finance and Accounting officer maintained an adequate system of controls to safeguard funds.

Brigadier General B. W. Hall:

This responds to your request for relief from liability under 31 U.S.C. Sec. 3527(c) for an improper payment in the amount of $63,500.49 charged to Lt. Col. N. Matich, DSSN 5460, Finance and Accounting Officer, 45th Area Finance Support Center (AFSC), APO New York. Relief is also requested for his Deputy, Cpt. Patricia L. Lockett. For the reasons stated below, we grant the requested relief.

The improper payment in this case resulted from an overpayment made by the Commercial Accounts Branch (CAB) of the 45th AFSC to a German contractor, Ing. Kurt Raunser GMBH. On September 5, 1984 voucher examiner Ms. Susan Van Swol prepared a voucher for payment on the Raunser contract and erroneously selected the total amount due on the contract instead of the partial payment due. This error resulted in an overpayment of $98,984.92, subsequently reduced to $63,500.49 by recalculation of the extent of contract performance. On September 6, 1984, 2d Lt. Rebecca J. Bottoms, Officer in Charge of the CAB, after reviewing the voucher, invoice and supporting documents, erroneously certified the voucher as correct and proper for payment. That same day Cpt. Patricia L. Lockett issued a check to Raunser, based on the certification.

On September 12, 1984, the CAB was notified by the Regional Contracting Office that all payments on the Raunser contract were to be stopped because bankruptcy proceedings had commenced. It was at this time that a voucher examiner in the CAB pulled the contract files and discovered the overpayment. Recovery actions were immediately initiated and included checking to see if there were other contracts with Raunser from which to offset payment, filing a claim in bankruptcy court, and filing a charge in criminal court alleging that the overpayment was fraudulently deposited. None of these efforts were successful.

Relief is requested for Lt. Col. Matich, in whose name the account is held, and Cpt. Lockett, Lt. Col. Matich's deputy, who actually issued the check to the

contractor. A disbursing officer's duty in making payments on behalf of the government is clear. He or she must act in good faith and exercise reasonable care. If these two criteria are met, he or she can be relieved of the personal liability which automatically attaches whenever an illegal, improper or incorrect payment is made. 31 U.S.C. Sec. 3527(c). Recognizing the burden this places on a Finance and Accounting officer, who is responsible for both the certifying and disbursing functions, we have granted relief in cases where the error was solely a subordinate's and where the Finance and Accounting officer presided over an efficient system of disbursements. B-216246, May 22, 1985.

In this case, we think the record indicates that there was no personal responsibility for the error on the part of the Deputy Finance Officer and that the Finance and Accounting Officer presided over an efficient disbursement system.

Certification of this voucher for payment was the responsibility of 2d Lt. Bottoms, who was the delegated certifying official. 2d Lt. Bottoms, however, is not an accountable officer according to the Department of the Army Regulation (AR) 37-107.1-7.f. Pecuniary liability for this improper certification remains with the Finance and Accounting officer. According to AR 37-107.1.7e the disbursing officer is entitled to rely on a designated certifying officer's certification "unless he has a reasonable doubt as to the correctness of the facts stated on or attached to the voucher." The question raised here is whether Cpt. Lockett, as the disbursing officer who actually issued the check, is personally responsible for the overpayment to Raunser for failing to discharge her duty with reasonable care. Supplemental information received indicates that the required scope of Cpt Lockett's examination prior to actually issuing the check was restricted to comparing the voucher and the check to ensure the check was correctly made out with the information provided on the voucher. There was nothing on the face of the voucher which would have put Cpt. Lockett on notice of a possible improper payment. Only a review of the invoice would have put Cpt. Lockett on notice of such a payment. However, such a review was not one of Cpt Lockett's duties. Under these circumstances, it was not unreasonable for Cpt. Lockett to issue the check as directed and she should not be held personally responsible for the improper payment. B-214273, December 11, 1984.

The submission states that Lt. Col. Matich had established and maintained an adequate system of controls to safeguard the funds for which he was responsible. We concur in that determination, given the circumstances. While we note that procedures for certifying vouchers have been strengthened to ensure that similar incidents do not occur, we believe that it was reasonable for Lt. Col. Matich to regard the procedures in effect at the time of the loss as adequate, considering that his evaluation of his command just prior to the loss indicated no procedural problems in this section. Since there is no indication that the improper payment was the proximate result of bad faith or lack of reasonable care on their parts, relief is granted to Lt. Col. Matich and Cpt. Lockett.

Finally, we note that collection activities initiated to recover the overpayment have not been successful. The record is unclear as to whether the matter has been referred to the Collections Division. If this referral has not taken place we recommend that such steps be taken now.