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[Request for Relief for Army Finance and Accounting Officer]

Number: B-227436

Date: 1987-07-02

B-227436, Jul 2, 1987, Office of General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Cashiers - Relief - Illegal/improper payments - Forgeries APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Disbursing officers - Relief - Illegal/improper payments - Forgeries DIGEST: U.S. Army Finance and Accounting Officer is relieved of liability for improper payment made by unidentified subordinate cashier in cashing a fraudulently endorsed check. Although the Standard Operating Procedures did not fully comply with Army Regulations, these procedures appear to have been adequate to prevent losses of this type from occurring. The loss in this case was the result of criminal activity outside the control of the finance and accounting officer.

Brigadier General B. W. Hall:

This is in response to your request of June 7, 1987, that we relieve Capt. Anthony J. Zuvich, Finance Corps, DSSN 5581, Finance and Accounting Officer, Seventh Army Training Command, APO New York under 31 U.S.C. Sec. 3527(c) for an improper payment in the amount of $433.69. For the reasons stated below, relief is granted.

According to your submission, the loss occurred on November 14, 1985, when United States Treasury check number 3,006,360 dated November 14, 1985, representing the pay of Ms. Ellonzo D. Hanks, was cashed with a fraudulent endorsement. The investigation, subsequent to the loss, revealed that the recipient of the money could not be identified, the method used to obtain possession of the check could not be determined and the cashier who cashed the check could not be identified. Nevertheless, the investigation concluded that at the time of the loss capt. Zuvich had an adequate system of procedures and controls to safeguard the funds for which he was accountable and recommended relief be granted.

As the disbursing officer officially responsible for the account, Capt. Zuvich is personally liable for deficiencies in his account caused by an improper payment made by his subordinates. This Office is authorized to grant relief from liability under 31 U.S.C. Sec. 3527(c) upon a determination that the improper payment was not the result of bad faith or lack of reasonable care by the official and that diligent collection efforts are being made. In cases where a subordinate of the official actually disbursed the funds, we have granted relief upon a showing that the finance officer properly supervised his subordinate by maintaining an adequate system of procedures and controls to safeguard the funds and took steps to ensure the implementation and effectiveness of the system. See 62 Comp.Gen. 476. (1983).

We have reviewed the Standard Operating Procedures (SOPs) effect at the time of the loss. Under SOPs a Treasury check should be cashed only if the payee presented a void ID card. The cashier is supposed to compare the name, SSN and signature on the ID card with that on the check. The back of the check is to be stamped with the finance office's DSSN number. The record indicates that the returned check bears the necessary identification required under these procedures.

We note, however, that the SOPs in effect under Capt. Zuvich did not fully comply with Army Regulations. Army Regulations require that a cashier mark or initial a check. See AR-37-103, Para. 2-59. By so doing it is possible, at a later date, to identify the cashier who cashed a particular instrument. Since no initials were required under Capt. Zuvich's SOPs, the identity of the cashier responsible for paying the forged instrument cannot be determined.

In view of the deficiency in these procedures, we cannot agree that the SOPs were sufficient. However, in order for us to deny relief on this basis, we must find that the lack of an initialing requirement was the proximate cause of the improper payment. B-225932, March 27, 1987. While the initialing requirement was the proximate cause of the improper payment. B-225932, March 27, 1987. While the initialing of the check would have allowed the cashier to have been identified and thereby a more thorough investigation to have been conducted, it would not have prevented the loss in this case. The improper payment here was the result of criminal activity-- the apparent presentation of false identification and a fraudulently endorsed check-- over which Capt. Zuvich had no control. Even the most carefully established and effectively supervised system cannot prevent every conceivable form of criminal activity. B-219124, July 15, 1985. Under these circumstances, we grant relief as requested.

Finally, collection action has not been attempted in this case because the identity of the individual who perpetrated the fraud has not been established. Of course, if in the future the Army identifies this individual, it should diligently pursue collection. 31 U.S.C. Sec. 3527(c).