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[Request for Relief for Army Finance and Accounting Officer]

Number: B-229136

Date: 1988-01-22

B-229136, Jan 22, 1988, Office of General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers Cashiers - Relief - Physical Losses - Theft DIGEST: Pursuant to 31 U.S.C. Sec. 3527(a), relief granted to Ms. Tammie Webb, Principal Imprest Fund Cashier for the U.S. Department of Housing and Urban Development, Region VI, Little Rock, Arkansas for a $3,434.12, imprest fund loss. Although cashiers are held to a standard of strict liability, relief is granted if the evidence clearly indicates a theft took place and an investigation reveals no connection between the accountable officer and the theft.

Ms. Kerr:

This is in response to your request that Ms. Tammi Webb, Principal Imprest Fund Cashier for the U.S. Department of Housing and Urban Development (HUD), Region VI, Little Rock, Arkansas, be granted relief from liability for a $3,434.12 imprest fund loss. The loss occurred apparently because of theft between close of business August 5, 1987, and the following day. For the reasons set forth below, we grant relief.

BACKGROUND

According to information submitted, Ms. Webb last paid a travel advance from the imprest fund cash box on the afternoon of August 5, 1987. The cash box was kept in the second drawer of a fireproof, three position dial combination file cabinet safe in the administrative staff offices of the building. The record states that the safe was locked prior to close of business that day. However, the following day, August 6, Mrs. Webb unlocked the file cabinet safe and found her cash box missing.

The Little Rock Police Department, the Secret Service, the Federal Bureau of Investigation, the Federal Protective Service, and the HUD Regional Inspector General were notified. The Little Rock Police Department and the FBI were the only ones to conduct investigations. The Little Rock Police Department investigation revealed that $3,434.12 was missing, but the Department has been unable to recover the money or identify a suspect. The FBI has refused to release its report.

DISCUSSION

It has long been recognized that accountable officers in physical custody of government funds are held to a standard of strict liability. Under this standard, an accountable officer becomes automatically liable the moment a

physical loss occurs. 54 Comp.Gen. 112, 114 (1974). Under 31 U.S.C. Sec.3527(a), however, this Office has the authority to grant relief from liability if we agree with the determination by the head of an agency that the loss in question occurred while the accountable officer was discharging his or her official duties and that the loss occurred without the officer's fault or negligence.

This Office has previously granted relief to accountable officers if the evidence clearly indicates a theft took place and an investigation reveals no connection between the accountable officer and the theft. B-212605, April l9, 1984; B-195789, June 5, 1980; B-159795, September 23, 1977. Clear evidence of theft is said to be relevant in overcoming the presumption of negligence on the part of the accountable officer. We have also recognized that the disappearance of a cash box from a locked safe indicates that a theft has probably occurred. B-212605, April 19, 1984; B-191942, September 12, 1979.

In this case there is clear evidence of theft. First, the record indicates that the cash box disappeared from the second drawer of the locked file cabinet. Second, this Office has been informally advised that the second drawer showed unmistakable signs of forced entry. According to the HUD Office in Little Rock, there was chipped paint outside the second file cabinet drawer plus bent metal inside, showing that a pry bar was probably used to gain access to the drawer. Third, the Little Rock Office also stated that another cash box (used by the alternate cashier) located in the first drawer of the same file cabinet had not been taken. In sum, only the second drawer of the cabinet had been forced open; the first drawer showed no signs of tampering.

To conclude, as there is clear evidence of theft in the record (when supplemented by additional information), we concur with the administrative determination that the loss of imprest funds occurred while Ms. Webb was acting in the discharge of her official duties and without fault or negligence on her part. Accordingly relief is granted.