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B-229827, Jan 14, 1988, Office of General Counsel

Number: B-229827

Date: 1988-01-14

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APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Disbursing Officers - Relief - Illegal/Improper Payments - Substitute Checks
APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Disbursing Officers - Relief - Physical Losses - GAO Review DIGEST: U. S. Army finance and accounting officer is relieved of liability for improper payments made by subordinate cashiers because he maintained and supervised an adequate system of controls to prevent improper payments. All of the cashiers are also relieved because they followed all prescribed procedures for cashing checks, notwithstanding that the payee circumvented those procedures through criminal activity.

Brigadier General Hall:

This is in response to your request of December 11, 1987, that relief be granted under 31 U.S.C. Sec. 3527(c) for Lt. Col. G. B. Morton, 39th Finance Support Unit, DSSN 6387, APD New York, for improper payments totaling $1,400.00.

In addition, relief is also requested for Ms. Patricia McClendon and Ms. Nancy Prime, the cashiers who actually made the improper payments. For the reasons stated below, we grant the requested relief.

The improper payments occurred during the period June 5, 1986 through June 19, 1986, when an individual claiming to be Sgt. Scott H. Foreman cashed seven personal checks for $200.00 each at the 39th Finance Support Unit finance office. The checks were returned to the finance office by American Express International Banking Corporation (AEIBC) because of insufficient funds. After the checks were returned it was discovered that the checks had been fraudulently negotiated. An investigation by the Criminal Investigation Division revealed that an unidentified male using false identification opened a checking account at the Hanau AEIBC in the name of Scott H. Foreman. The bank issued the individual 25 starter checks. The day before the first check was cashed at the finance office, the military identification card used by the individual was issued by the 574th Personnel Service Center, Hanau.

In cases such as this one, both the person who made the improper payment and the person in whose name the account is officially held are liable as disbursing officials for the amount of the improper payment. Under 31 U.S.C. Sec. 3527(c) (1982), this Office has the authority to relieve a disbursing official from liability when the improper payment was not the result of bad faith or lack of reasonable care by the official. The gcod faith and reasonable care of a supervisory disbursing official is shown by evidence that the supervisor

maintained adequate procedures and controls to avoid errors and that the supervisor took steps to implement those controls. The good faith and reasonable care of the person who made the payment can be shown by evidence that the individual complied with established procedures and that nothing occurred which should have made that person suspicious of the fraud. B-227209, August 5, 1987.

The supporting documents establish that Lieutenant Colonel Morton maintained and implemented an adequate system of controls over check cashing procedures to safeguard the funds for which he was responsible. Furthermore, it is apparent that the cashiers complied with all the procedures and controls in cashing these seven checks which included examining the validity of the check and ID presented and consulting the "bad check 1ist." Nothing in the record suggests that the cashiers should have been suspicious of the fraudulent nature of the transactions. The improper payments in this case were the result of criminal activity that even a carefully established and effectively supervised system cannot always prevent. B-228859, September 11, 1987. Since there is no indication that the improper payments were the result of bad faith or lack of reasonable care on their parts, relief is granted to Lieutenant Colonel Morton, Ms. McClendon and Ms. Prime.

You indicate that collection action has not been possible because the identity of the individual who committed this fraud is unknown. You have said that you will pursue collection activity once this individual is identified.