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[Request for Relief for Treasury Employee]

Number: B-229847

Date: 1988-01-29

B-229847, Jan 29, 1988, Office of General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Cashiers - Relief - Physical Losses - Theft DIGEST: Special agent who had $1,000 in agent cashier funds stolen from his hotel room while working on an undercover assignment may properly be relieved of liability for the loss where the record indicates that the agent was neither negligent nor careless with regard to the funds and the agent was not implicated in the loss.

Mr. Bryant:

This is in response to your letter of November 23, 1987, requesting that the General Accounting Office grant relief in the amount of $1,000 to Special Agent John C. Davis who was the apparent victim of a burglary. For the reasons stated, we grant the requested relief.

On August 26, 1986, while working in an undercover capacity in Miami, Florida, Special Agent Davis had $1,000 in agent cashier funds and various other items stolen from his hotel room in his absence. The Treasury Department recommends, in light of the conclusions yielded by its investigation of the matter, in which no negligence or carelessness on the part of the special agent was revealed, that Special Agent Davis be relieved of liability for the full amount.

Section 3527 of Title 31, United States Code (1982) authorizes this Office to grant relief for physical loss of funds when we agree with a determination by the agency that the loss occurred while the accountable officer was acting in the discharge of his or her duties and that the loss occurred without fault or negligence on the officer's part.

The Comptroller General has consistently relieved accountable officers of liability for the physical loss of funds where the loss is the result of theft and no connection between the theft and the accountable officer is revealed. See B-202290, June 5, 1981 and B-198789, June 5, 1980. The facts revealed thus far indicate that a confidential informant, who had performed in a reliable fashion prior to the theft, was working with Special Agent Davis. This informant apparently gained access to Mr. Davis' hotel room by illegally obtaining Mr. Davis' key from a hotel employee. In addition to the overwhelming evidence of theft in this case and a lack of evidence implicating Special Agent Davis, the record indicates that Mr. Davis took the additional precaution of hiding the valuables in the hotel room where the theft occurred.

In view of the foregoing and based on the record before us, we agree with the Department of the Treasury's determinations. Special Agent Davis is therefore

relieved of liability for the $1,000 loss.