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B-230606.2, Sep 6, 1988, Office of General Counsel

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B-230606.2, Sep 6, 1988, Office of General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Cashiers - Relief - Physical losses - Theft DIGEST: Where disappearance of funds from a USIS Building in Teheran was the result of a terrorist attack, a cashier is relieved of liability because negligence on his part, if any, was not the proximate cause of the loss.

Mr. Stanley M. Silverman

Comptroller

United States Information Agency:

This responds to your request of June 16, 1988, that we reconsider our decision B-230606, April 7, 1988, which denied relief to Loris Martyrosian, USIS Teheran Class B cashier, for the loss of 1,412,759 Iran Rials ($14,270.30). For the reasons stated below, we grant relief.

As we explained in our initial decision on this matter, we are authorized to grant relief under 31 U.S.C. Sec. 3527 (1982), if we independently concur with your determination that Mr. Martyrosian was acting in the official discharge of his duties and was without fault or negligence in the loss. In order to relieve him from pecuniary liability, we must have affirmative evidence that the loss was not the result of his negligence.

In your current request, it is noted that the 1,412,759 Rials disappeared as a result of the terrorist attack on the USIS Building in Teheran on November 4, 1979. The initial submission for relief contained materials indicating that Mr. Martyrosian had also lost 831,968 Rials in currency and checks in February 1979. Based on the earlier submission supporting two different amounts of missing funds, we were unable to ascertain how much was lost as a result of the November 1979 attack. In addition, the record lacked an account of Mr. Martyrosian's actions relevant to the loss. As such, we were unable to concur with your determination that Mr. Martyrosian was acting in the official discharge of his duties and was without fault or negligence in the loss.

The present submission contains an April 18, 1988 memorandum from the disbursing officer, Regional Administrative Management Center, American Embassy in Paris, stating that the shortage of funds connected with the February 1979 incident had been resolved prior to the November attack. addition, the memorandum indicates that the total advance in Mr. Martyrosian's account at the time of the November attack was 1,412,759 Rials.

Thus, the record now supports the conclusion that the loss of 1,412,759 Rials occurred during the November 4, 1979 siege and attack and that there was clear evidence of burglary when access to the building was regained. Although there is no evidence available as to any fault or negligence on the part of the cashier, it seems clear that the proximate cause of the loss was the terrorist attack, not any action or inaction on the part of the cashier. Accordingly, we grant relief.