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B-233997.3, Nov 25, 1991, Office of General Counsel

Number: B-233997.3

Date: 1991-11-25

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DIGEST: Relief is granted U.S. Army cashier under 31 U.S.C. Sec. 527(c) for an improper payment resulting from the payee's forged endorsement on a check. The cashier complied with existing procedures and the loss resulted from a criminal activity over which the cashier had no control.

Colonel D. W. Mikkelson, Chief of Staff, Finance Corps:

This responds to your request of December 19, 1988, as amended by letter of June 14, 1989, that we relieve cashier Delores Dy under 31 U.S.C. Sec. 527(c) for an improper payment of $600. For the reasons stated below, we grant relief.

The improper payment occurred on December 15, 1986, when an individual representing himself as SSgt. James A. Kinney negotiated a check for $600 at the Forward Support Team- Mannheim, Germany. The check, drawn on an account at the Service Federal Credit Union, was subsequently dishonored due to insufficient funds. An investigation conducted after the check was returned revealed that the checking account had been fraudulently established.

In a prior decision, B-233997, Jan. 10, 1990, we relieved the supervisory disbursing official of personal liability for the loss, but suspended the running of the statute of limitations with regard to cashier Dy pending the receipt of e U.S.C. Sec. 526(g). We noted that pursuant to the procedures submitted with the request for relief, Ms. Dy was required to obtain her supervisor's approval before cashing a check of the sort presented by SSgt. Kinney in an amount in excess of $200. We stated that it was not clear that Ms. Dy had sought authority to cash SSgt. Kinney's $600 check, and that we could not fully consider the relief request without more information concerning her action.

Your June 19 letter notes that the procedures you submitted to us with your original relief request were not those in effect at the time Ms. Dy cashed SSgt. Kinney's check. The procedures in effect at that time, dated September 19, 1986, did not impose a $200 limit on check amounts. Instead, they required cashiers to obtain approval prior to cashing only checks exceeding $745. Consequently, evidence that Ms. Dy sought supervisory approval to cash SSgt. Kinney's check is not necessary to relieve Ms. Dy of liability. Under 31 U.S.C. Sec. 527(c), we can relieve disbursing officials from liability for a deficiency resulting from an improper payment if we determine that the payment was not the result of bad faith or a lack of reasonable care. B-241880, Aug. 14, 1991. The good faith and reasonable care of a cashier can be shown by evidence that the individual complied with established procedures and nothing occurred which should have made

that person suspicious of the fraud. B-242444, July 8, 1991.

Pursuant to section 8(h) of the procedures issued September 19, 1986, cashiers were required only to compare the name and social security number on the payee ID card with those on the check, and match the photograph on the ID card against the person presenting the check. Investigations subsequent to the event indicate that Ms. Dy followed these procedures. Further, the record shows no reason for Ms. Dy to have been suspicious of fraud. It appears that the payment resulted from skillfully executed criminal activity and not from bad faith or lack of reasonable care on the part of Dy. See B-240280, May 22, 1991. Therefore, we grant relief to cashier Dy.