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B-240280, May 22, 1991

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APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Cashiers - Relief - Illegal/improper payments - Fraud APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Disbursing officers - Relief - Illegal/improper payments - Fraud DIGEST: Relief is granted to finance officer who supervised an adequate system of procedures and controls to safeguard the funds in his care, and to the cashier who followed these procedures. The improper payments resulted from criminal activity that even an adequate and effectively supervised system cannot always prevent. See, e.g., B-240654, Feb. 6, 1991.

Colonel Garry D. Foster Finance Corps, Chief of Staff

This letter responds to your request that we relieve Major M.R. Fellingham, Finance and Accounting Officer, Disbursing Station Symbol Number 5460, 45th Finance Support Unit, APO New York 09227, from liability for two improper payments totalling $542.48. For the reasons stated below, we grant relief to Major Fellingham. We also grant relief to Sergeant Nadine McDowell-Lottier, the cashier who disbursed the funds at issue.

The improper payments occurred on December 17, 1987, when Sergeant McDowell-Lottier cashed two paychecks, each in the amount of $271.24, for an individual purporting to be Karin Gotcher. The checks, drawn on the Merchants National Bank and Trust Company, were returned as debit vouchers after the bank had received a notice from the Treasury Department that the checks were cashed with a fraudulent endorsement. Treasury had notified the bank apparently after receiving a claim by Karin Gotcher for the proceeds of the checks alleging non-receipt and non-negotiation of the checks.

An investigation initiated by Major Fellingham concluded that either the checks were cashed by an unknown individual with a fraudulent endorsement or that Karin Gotcher committed fraud by cashing the checks and claiming non-receipt. There apparently was insufficient evidence to establish the facts. One problem with the investigation was that Karin Gotcher was then separated from the service and could not be interviewed. Major Fellingham requested that the Criminal Investigation Division (CID) investigate the validity of the signature on the checks, but CID decided that the loss was fraudulent and that the dollar amount of the loss did not warrant an investigation. Since the identity of the person who committed the fraud has not been established, the Army has been unable to take any collection action.

In cases such as this one, both the person in whose name the account is officially held, Major Fellingham, and the cashier who cashed the checks,

Sergeant McDowell-Lottier, are liable as disbursing officials for the amount of the improper payments. /1/ This Office has authority under 31 U.S.C. Sec. 3527(c) to relieve a disbursing official from liability for a deficiency resulting from an improper payment if we determine that the payment was not the result of bad faith or lack of reasonable care by the disbursing official. B-229827, Jan. 14, 1988. We have granted relief to a supervisory disbursing officer upon a showing that he properly supervised his subordinates by maintaining an adequate system of procedures and controls to safeguard the funds, and took steps to ensure the system's implementation and effectiveness. B-240440, Mar. 27, 1991; B-232575, Nov. 8, 1990. The good faith and reasonable care of the cashier who made the payment can be shown by evidence that she complied with established procedures and that nothing occurred which should have made her suspicious of the fraud. B-229827, Jan. 14, 1988.

The supporting documents establish that Major Fellingham implemented and maintained an adequate system of controls over check cashing procedures. These controls included requirements that cashiers verify the person receiving cash by positively identifying the person against the photo on his/her military identification card, and by comparing the signature on the check with the signature on the identification card. Cashier Standard Operating Procedures, section 5(a)(5) (Jan. 1, 1988) (procedures identical to those in effect at time of improper payments).

Moreover, the supporting documents also indicate that Sergeant McDowell- Lottier followed these established procedures, and that there was no reason that she should have been suspicious of fraud. Indeed, the improper payments were apparently the result of skillfully executed criminal activity that even an adequate and effectively supervised system cannot always prevent. See, e.g., B-240654, Feb. 6, 1991; B-232575, Nov. 8, 1990.

Accordingly, since there is no indication of bad faith or a lack of due care on the part of Major Fellingham or Sergeant McDowell-Lottier, we grant relief to both of them from liability for the loss.

/1/ Consequently, we address the liability of the cashier even though you did not request that we relieve her.