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B-243324, Apr 17, 1991

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Date: 1991-04-17

B-243324, Apr 17, 1991

APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Cashiers - Relief - Physical losses - Theft DIGEST: Relief is granted to cashier from a loss, apparently due to theft resulting from lax security.

Mr. Wallace E. Stickney

Director:

This responds to your letter of March 13, 1991, asking that we relieve FEMA's Region IV (Atlanta), Imprest Sub-Fund Cashier, Evelyn Marlow, from liability for the loss, apparently by theft, of $1,707.55. For the reasons that follow, relief is granted.

A review of the record in this case reveals the following facts. close of business, Friday, June 5, 1987, before leaving on scheduled annual leave, Ms. Marlow verified the amount of imprest funds in her custody and locked her safe. Ms. Marlow recalls specifically checking the safe and the safe dial to make sure it was locked. Five days later, on Wednesday, June 10, 1987, a Mr. Sarabia was called into Ms. Marlow's office by a Mr. Dwayne Butts on the pretense of obtaining Mr. Sarabia's assistance locating labels in a supply cabinet. Mr. Butts at that time pointed out to Mr. Sarabia that the safe door was slightly ajar.

Mr. Sarabia called the second imprest fund cashier who conducted an audit of the Fund. After the audit disclosed the shortage, Mr. Sarabia contacted the Atlanta police, the FBI, and FEMA's Office of Inspector General (IG), the latter continuing the local constabulary's investigation of the loss after the FBI declined investigation. The IG's investigation did not resolve the loss.

A review of the IG's investigation discloses several security deficiencies outside Ms. Marlow's control. Although FEMA required the safe combination to be kept in a secure place in Thomasville, Georgia, the combination was maintained in a sealed envelope in Atlanta for some time. Apparently, the safe's combination could be read through the sealed envelope. During none of the investigations were fingerprints taken from the safe and cash box nor did the investigation ascertain who used Ms. Marlow's office in her absence. Such information would have been useful either to corroborate or contradict Ms. Marlow's statement that the safe was secure when she left work on Friday or to identify who, other than Ms. Marlow, attempted to or did gain access to the safe and cash box. Moreover, although no one was authorized to use Ms. Marlow's office, the IG investigation adduced substantial evidence that it was used

during her absence as a workplace. Apart from the unexplained and unauthorized use of her office as a workplace, the security of the office also had been compromised by locating the supply cabinet there and permitting anyone to enter the office at will to access the supply file.

Under 31 U.S.C. Sec. 3527(a), this Office may relieve an accountable officer from liability for a physical loss of government funds if it agrees with the determination of the head of the agency that the loss occurred while the officer was acting in his or her official capacity and the loss was not the result of negligence on the part of the accountable officer. In cases similar to this, we have relieved accountable officers on the theory that faulty security precludes definite placement of liability for the loss, thereby overcoming the presumption of negligence that normally attaches to an accountable officer when a loss occurs. See e.g., B-199034, Feb. 9, 1981.

The record before us indicates that the loss occurred apparently as a result of a theft facilitated or made possible by lax security. evidence controverts Ms. Marlow's testimony nor has any evidence been discovered that implicates her in the theft.

Accordingly, we agree with the agency's determination and grant Ms. Marlow relief from liability in the amount of $1,707.55.