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APPROPRIATIONS/FINANCIAL MANAGEMENT Accountable Officers Cashiers Relief Illegal/improper payments Fraud APPROPRIATIONS/FINANCIAL MANAGEMENT Accountable Officers Disbursing officer Relief Illegal/improper payments Fraud Army finance officer and subordinate cashier are granted relief under 31 U.S.C. Sec. 3527(c) for improper payment totaling $235. Improper payment resulted from fraudulent negotiation of a stolen check. The finance officer acted within bounds of reasonable care and the cashier followed established procedures.

Mr. David Gagermeier Assistant General Counsel Defense Finance and Accounting Service Indianapolis, Indiana 46249-0001

Dear Mr. Gagermeier

This responds to your October 18, 1991, request that we relieve Lieutenant Colonel R. O. Helms, Finance Corps, under 31 U.S.C. 3527(c)(1988) from his personal liability for a $235 improper payment. For the following reasons, we grant relief. Though not a part of your request, we also relieve PFC Douglas A. Bach, the cashier who cashed the forged check.

Background

The improper payment occurred on July 25, 1990, when an individual purporting to be Pvt. James A. Whittaker presented a personal check for $235 at the 177th Finance Office, Camp Casey, Republic of Korea. The check was drawn on the account of James A. or Cora Whittaker, at Citizens Bank, Cookeville, Tennessee. The bank subsequently returned the check to the Finance Office because the signature on the check did not match the one on file at the bank. The dishonored check was collected from Pvt. Whittaker's pay.

On August 7, 1990, Pvt. Whittaker reported to the Criminal Investigation Division that 29 personal checks had been stolen, one of which was the $235 check cashed at the Finance Office. [1] CID determined that Pvt. Whittaker did not negotiate the check and that person(s) unknown committed larceny and forgery of Pvt. Whittaker's checks. The Finance Office therefore reimbursed Pvt. Whittaker for the amount withheld from his pay and the $235 loss due to improper payment was recorded to LTC Helms' account. Discussion In cases such as this one, both the person in whose name the account is officially held, LTC Helms, and the cashier who cashed the checks, PFC Bach, are liable as disbursing officers for the amount of the improper payment. B-240280, May 22, 1991. However, under 31 U.S.C. Sec. 3527(c) (1)(1988), this Office may relieve a disbursing officer of liability when the improper payment was not the result of

bad faith or lack of reasonable care by the disbursing officer. B-229827, Jan. 14, 1988 Where, as here, the incorrect payments were made by the disbursing officer's subordinate, we generally will find that the disbursing officer acted with reasonable care for purposes of 31 U.S.C. 3527 (c) upon a showing that the finance officer properly supervised subordinate employees. "Proper supervision is demonstrated by evidence that the supervisor maintained an adequate system of procedures and controls to avoid errors and that appropriate steps were taken to insure the systems implementation and effectiveness."

62 Comp.Gen. 476 at 480 (1983). The reasonable care and good faith of the cashier who made the payment can be shown by evidence that the cashier complied with established procedures and nothing occurred which should have made the cashier suspicious of the fraud. B-229827, Jan. 14, 1988.

Your submission included a copy of the applicable operating procedures which cashiers were required to follow when negotiating personal checks. The cashier is trained to take the check and identification card, make comparisons to the dishonored check listings which are on hand, and have the soldier complete the local record of transaction form which includes the soldier's name, rank, social security number, expiration term of service date, date eligible for return from overseas, organization, phone number and signature. The record includes PFC Bach's statement that he had followed the standard operating procedures for cashing personal checks.

The record supports your finding that the improper payment here resulted from criminal activity over which neither LTC Helms nor PFC Bach had control. The offender was able to cash the forged check with the cashier even though the cashier's standard procedure is to check the individual's ID card, and the cashier did not note any discrepancy between the ID picture and the offender or between the ID signature and that on the checks being cashed. There is nothing in the record which suggests the cashier should have been aware of the fraudulent nature of the transaction. Even an adequate and effectively supervised system of procedures and controls cannot always prevent improper payment resulting from criminal; activity. B-241880, Aug. 14, 1991, B-232575, Nov. 8, 1990. There is no indication that the improper payment was the proximate result of bad faith or lack of reasonable care by LTC Helms or PFC Bach.

Because the identity of the perpetrator has not been established, no collection action has been taken. However, you state that if the culpable party is later identified, aggressive collection action will be taken against that individual. Accordingly, we grant relief to LTC Helms and PFC Bach.

Finally, enclosed is B-239483.2, July 8, 1991, 70 Comp.Gen. 616, which concludes that agencies may adjust their accounts for check cashing losses. Agencies which do so need not ask this Office to relieve accountable officers from their liability. You should consider whether other losses resulting from fraudulent negotiation of Pvt. Whittaker's stolen checks, as well as other check cashing losses may best be resolved within the Department of Defense as discussed in the enclosed decision.

1. Your submission states that checks stolen from Pvt. Whittaker and negotiated at other facilities will be the subject of other investigations.