GAO

United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-260753

January 11, 1996

Mr. John S. Nabil
Director, Defense Finance and Accounting Service
Denver Center
6760 E. Irvington Place
Denver, Colorado 80279-8000

Dear Mr. Nabil:

This responds to your letter dated March 7, 1995, requesting relief from liability on behalf of four accountable officers for an improper payment in the amount of $1,254. The improper payment resulted when a check was issued for a travel advance to S. Sgt. Scott G. Franklin after he had already been paid in cash. We conclude that Capt. Dale R. Carlson and Mrs. Gertrude Noel did not make the improper payment; relief is therefore unnecessary. With regard to Mr. James Dockter and Mrs. Julane Wood, relief is granted.

On November 2, 1992, the Accounting and Finance Office at F.E. Warren Air Force Base (Finance Office) mailed a check for a permanent change of station (PCS) claim payable to Sergeant Franklin in the amount of $1,254. Sergeant Franklin did not receive the check and on November 10, 1992, he so notified the travel section of the Finance Office, claiming that the check had been mailed to the wrong address. On November 12, 1992, S. Sgt. Jon Goldtrap, in violation of Air Force Regulations, prepared a voucher to pay Sergeant Franklin the $1,254 in cash. Air Force Regulations specify that when a certified U.S. Treasury check has been reported as lost, recertified payments must be "by a new numbered (not a control or substitute) replacement check issued to a recipient based on a claim against the original check." AFR 177-108, ch. 9, para. 9-2(e). The Finance Office's cashier, Mrs. Gertrude Noel, upon receipt of Sergeant Goldtrap's voucher, paid cash to Sergeant Franklin on November 12.

Several weeks later, on December 9, 1992, Mrs. Julane Wood, Chief of Paying and Collecting, unaware that Sergeant Franklin had been paid in cash, authorized the issuance of a second check to replace the check that Sergeant Franklin claimed not

to have received. S. Sgt. Goldtrap, in authorizing the cash payment, erroneously charged the PCS appropriation account, account 573500 32358890Y 503725, rather than the replacement check appropriation as required by governing regulations. Consequently, when Mrs. Wood checked the replacement check appropriation to determine if Sergeant Franklin had been paid, there was no record of a replacement check being issued. Mrs. Wood then directed T. Sgt. Larry Buchholtz to prepare a voucher for a replacement check. Sergeant Buchholtz prepared the voucher on December 9, 1992, and Sergeant Franklin received and cashed the replacement check later that month. On April 29, 1993, Mrs. Wood discovered that Sergeant Franklin, then separated from the Air Force, had been paid twice. Diligent collection action was undertaken, although collection efforts failed.

The cash payment of November 12, although in violation of Air Force Regulations, did not constitute an improper payment; there is nothing in the record to suggest that Sergeant Franklin was not otherwise entitled to the amount he was paid. The replacement check issued on December 9 was improper in that it duplicated a payment already made to Sergeant Franklin. The two disbursing officers accountable for this payment are Mr. James Dockter, who was the accounting and finance officer on December 9, and Mrs. Wood. Disbursing officers are personally liable for deficiencies in their accounts resulting from illegal, improper, or incorrect payments. However, under 31 U.S.C. § 3527(c), this Office may relieve a disbursing officer of liability when the record indicates that the disbursing officer acted within the bounds of reasonable care as established by applicable regulations, that there is no evidence of bad faith on the part of the disbursing officer, and that a diligent effort was made to collect the overpayment.[1] 70 Comp. Gen. 298, 299 (1991); 62 Comp. Gen. 91, 92 (1982).

There is no suggestion in this case of bad faith on the part of either Mr. Dockter or Mrs. Wood. Moreover, the record establishes that diligent collection efforts were made to recover the $1,254 from Mr. Franklin. Therefore, the question that remains is whether these two accountable officers exercised reasonable care for purposes of 31 U.S.C. § 3527(c). 70 Comp. Gen. at 299.

In cases where a subordinate of an accountable officer actually disbursed the funds, reasonable care of the supervisory official, in this case Mr. Dockter, is shown by evidence that the supervisor maintained an adequate system of procedures and controls to avoid errors and that the supervisor took steps to ensure the system's effectiveness. B-241019, Aug. 19, 1991; B-235036, Oct. 17, 1989. The record shows

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[1]Capt. Dale R. Carlson, an accounting and finance officer, Mrs. Gertrude Noel, and Sergeant Goldtrap are responsible for the cash payment to Sergeant Franklin on November 12. Disciplinary action for violating Air Force Regulations is outside of this Office's jurisdiction.

that the Air Force had in place, at the time of this improper payment, procedures and controls adequate to safeguard against a duplicate payment of the sort at issue here. Air Force Regulations governing the issuance of replacement checks required that any payment made as a result of a lost or stolen check was to be in the form of a check, not cash, the amount of which was to be logged into the replacement check log system and charged to appropriation account 57F3880 670100. Moreover, the record indicates that the Finance Office undertook reviews to ensure that these regulations were followed. Thus, the record establishes that the supervisory official, Mr. Dockter, exercised reasonable case.

The record also establishes that Mrs. Wood exercised reasonable care in that she followed these regulations. B-246369, Feb. 3, 1992. Mrs. Wood, in accordance with established procedure, checked the replacement check appropriation when she was advised that Sergeant Franklin had claimed not to have received the initial check, in order to confirm that a replacement had not yet been advanced. The improper payment resulted not from any lack of reasonable care on her part, but because Sergeant Goldtrap, when he erroneously authorized a cash payment to Sgt. Franklin, did not charge the amount against the replacement check appropriation account. Mrs. Wood, consequently, had no means of knowing that Sergeant Franklin had already been paid. The record, therefore, establishes that both accountable officers, Mr. Dockter and Mrs. Wood, exercised reasonable care. The statutory criteria in 31 U.S.C. § 3527(c) have been met and relief is granted.

Sincerely yours,

Gary L. Kepplinger
Associate General Counsel

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DIGEST

Two disbursing officers are relieved of liability pursuant to 31 U.S.C. § 3527(c) for the improper payment of a recertified check after a cash payment for a lost check had already been made. There is no indication of bad faith on the part of the disbursing officers; disbursing officers exercised reasonable care as established by applicable regulations; and collection action was initiated in a timely and adequate manner.

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