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B-71445 June 20, 1949

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The Administrator War Assets Administration

My dear Mr. Administrators:

Consideration has been given letter date April 1, 1949, from your predecessor in office, relative to relieving, pursuant to the act of August 1, 1947, 61 Stat. 720, William J. Shaver, former collection officer, War Assets Administration, Buffalo, New York, of responsibility for a shortage of $532 in his accounts, which matter was the subject of decision of the Office dated February 11, 1948, B-71445.

It was held in the referred-to decision that, since no finding has been made in the Administrator's letter of November 26, 1947, that the loss or deficiency occurred while the officer or agent was acting in the discharge of his official duties or by reason of the act or omission of a subordinate of such officer--which finding is prerequisite to granting of relief under the act--that the granting of relief would not appear proper. Also, it was pointed out that, since it appeared from the record that collections were required to deposited daily but had not been so deposited--the lost funds having been permitted to accumulate during the period June 19 to 27, 1947--and that, but for such failure to deposit the funds, the loss would not have occurred, it would not appear that this Office would be warranted in concurring with the Administrator's determination that the loss occurred "without fault or negligence" on the part of Mr. Shaver.

The Administrator's letter dated April 1, 1949, supplies the administrative finding requisite to proper consideration of the matter, and states that the prior report indicating that its fiscal regulations required daily deposits was erroneous, the regulations in effect at the time of the robbery providing generally that "all deposits should be made within sixteen regular-time working hours of receipt of the collections." It is again recommended in the said letter that relief be granted Mr. Shaver under the provisions of the act of August 1, 1947, supra.

An examination of the evidence submitted with the said letter shows that the $532 was lost through burglary on the morning of Monday, June 30, 1947; that the funds stolen were the proceeds of a cash and carry sale of wrist watches to veterans during the period June 19 to 29, 1947; that due to failure to show on the cash receipt vouchers the dates of sale, it is impossible to determine the specific dates on which the cash was collected; but, based on recollections of Mr. Shaver and his cashier, it is estimated that $98 was collected prior to

Thursday, June 26, 1947; and the balance was collected on that date and prior to the close of business on Friday, June 27, and a statement dated July 9, 1947, to that effect, signed by both Mr. Shaver and his cashier, is of record.

It appears evident that, under fiscal regulations requiring deposit of collections within sixteen working hours, or two working days, collections received prior to Thursday, June 26, 1947, should have been deposited by the close of business on Friday, June 27, 1947; also, that had such funds been so deposited they would not have been lost by burglary on Monday, June 30, 1947. Hence, the loss appears to have been incurred at least in part, $98, by reason of Mr. Shaver's own omission or mistake in failing properly to deposit amount collected as required by administrative regulation. Accordingly, this Office is unable to concur in the administrative determination that the entire loss occurred "without fault or negligence" on the part of Mr. Shaver and, on the facts as now presented, there appears no proper basis for granting relief on account of the said sum of $98. Accordingly, if action has not yet been taken, demand should be made on the former employee and his surety without further delay and, if the amount of $98 is not promptly refunded, the matter should be referred to the Claims Division, General Accounting Office, for appropriate action to effect collection.

Sincerely yours,

Lindsey C. Warren

Comptroller General

of the United States