



Office of the General Counsel

B-271017

August 12, 1996

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

Dear Mr. Nabil:

This responds to your January 29, 1996, request for relief of liability for four accountable officers for two improper payments totalling \$5,513.74. The improper payments were made on two separate occasions at Moody Air Force Base Defense Accounting Office, Georgia, based on fraudulent "Do It Yourself Move" (DITY) papers. For the reasons discussed below, we grant the requested relief.

The first improper payment occurred on August 1, 1994, when Sergeant First Class (SFC) Robert J. Lamb went to the 347th Comptroller Squadron, Moody Air Force Base Traffic Management Office (TMO) and requested paperwork for a DITY move. Based upon fraudulent orders presented by SFC Lamb calling him to active duty, Ms. Nancy Yates, personal property counselor at TMO, assisted SFC Lamb in the preparation of DD Form 2278, Application for Do-It-Yourself Move. The orders presented appeared to be authentic and valid. Upon completion of the form with the proper signatures, SFC Lamb went to the Moody Air Force Base finance office and gave the DD Form 2278, along with a copy of his orders, to Ms. Maureen Frazier, a travel pay technician. Ms. Frazier reviewed the form and orders checking for the requisite signatures and fund citations. The appropriate information was entered in the Integrated Automated Travel System (IATS) and the voucher authorizing payment was forwarded to Ms. Maureen Corpus, the cashier in Paying and Collecting, for payment. Ms. Corpus verified SFC Lamb's military identification and his signature and paid SFC Lamb the advance cash payment of \$3,613.74.

The second improper payment was on September 28, 1994, when SFC Lamb again went to the Moody Air Force Base finance office and presented what appeared to

be valid travel orders calling him to active duty and a completed DD Form 2278. This DD Form 2278 was not completed by TMO personnel and the signature on the form was forged. Travel pay personnel entered the appropriate information in the IATS and forwarded the voucher authorizing payment to Ms. Nancy Harrell, alternate cashier in Paying and Collecting, for payment. The DD Form 2278 allowed for a payment of \$3,613.74, just as the first DD Form 2278 had, but SFC Lamb requested a reduced payment of \$1,900. Ms. Harrell verified SFC Lamb's identification and signature and paid him the advance cash payment of \$1,900.

On December 19, 1994, the Defense Accounting and Finance Service, Denver, Colorado, sent out a fraud alert warning the field offices of SFC Lamb. The warning read: "Member is AWOL from the Army 1265th Ordinance Maintenance Unit. SFC Lamb has received fraudulent travel payments from several Air Force, Army, and Navy bases in the Florida area using what appears to be valid guard-to-active duty orders . . . Request widest dissemination of the above information to include all disbursing facilities (paying and collecting and travel/military pay customer service), exchange and commissary stores. Under no circumstances should this person receive any payments." This message was circulated through the 347th Comptroller's read files. Ms. Joyce Moore, an accounting technician in Travel Accounting, read the alert and ran an inquiry on SFC Lamb's social security number in the Automated Travel Accounting System. The system identified two previous payments for DITY advances totaling \$5,513.74 to SFC Lamb. Ms. Moore reported this information to the Defense Accounting Officer, Mr. Gordon Armstrong, who then alerted the U.S. Air Force Office of Special Investigations (OSI) through proper channels. No payments were made to SFC Lamb after the receipt of the above message. SFC Lamb was arrested in December, 1994, in Orlando by OSI agents.

Under 31 U.S.C. § 3527(c), this Office has authority to relieve accountable officers from liability when the record indicates that the officer acted with due care and there is no indication of bad faith on the part of the accountable officer. Section 3527(c) also provides that we may deny relief if we find that diligent collection efforts have not been made.

In cases similar to this one where a subordinate disbursed the funds, a supervisory accountable officer demonstrates due care upon a showing that he or she maintained an adequate system of procedures and controls to avoid errors and that appropriate steps were taken to ensure the system was effective. 62 Comp. Gen. 476 (1983). The supervisory accountable officers involved in this case are Mr. Armstrong, Defense Accounting Officer, in whose name the account is officially held, and Ms. Cathy Tilley, Chief of Paying and Collecting, the direct supervisor of the two cashiers. Your letter and supporting documents provide the procedures in effect at the time of the payments and show that both cashiers complied with the procedures. We therefore conclude that both Mr. Armstrong and Ms. Tilley maintained an adequate system of procedures and controls to avoid this loss and

that appropriate steps were taken to ensure that those controls were implemented. The improper payments in this case were the result of criminal activity over which Mr. Armstrong or Ms. Tilley had no control. Even the most carefully established and effectively supervised system cannot prevent every conceivable form of criminal activity. See, e.g., B-213874, Sept. 6, 1984. We see no indication that the improper payments were the proximate result of bad faith or lack of reasonable care on the part of either Mr. Armstrong or Ms. Tilley.

The cashiers, Ms. Corpus and Ms. Harrell, are also accountable officers in this case. 62 Comp. Gen. at 479. Where a cashier appears to have been in full compliance with existing directives and nothing in the record suggests a lack of due care, this Office may grant relief under 31 U.S.C. § 3527(c). B-209717.2, July 1, 1983. Here, the record indicates that both cashiers followed the prescribed procedures for redeeming vouchers. A cashier who is presented a properly certified document, as occurred here, is under no obligation to investigate the circumstances which led to the certification. Cf. B-213550, Apr. 6, 1984. Of course, the cashier should not make a payment based on a certified document until the payee has properly identified himself and the voucher is inspected for unauthorized alterations. Id. Both cashiers were provided SFC Lamb's orders and a signed DD Form 2278. Both cashiers verified SFC Lamb's identification, signature and voucher, and paid SFC Lamb no more than his operating allowance noted on the form. Nothing in the record suggests that either cashier should have been suspicious of the fraudulent nature of the transactions. Accordingly, we conclude that the improper payments were not the result of bad faith or a lack of reasonable care on the part of either cashier.

Since we conclude that the improper payments were not the result of bad faith or the lack of reasonable care by any of the accountable officers, the final issue is whether the Air Force undertook diligent collection action as specified by 31 U.S.C. § 3527(c). In order to show that such effort has been made, a relief request must demonstrate compliance with the Federal Claims Collection Standards issued jointly by the General Accounting Office and the Department of Justice. 62 Comp. Gen. at 478.

The Federal Claims Collection Standards require that "any claim as to which there is an indication of fraud" should be promptly referred to the Department of Justice. 4 C.F.R. § 101.3. The Department of Justice may then, in its discretion, return the matter to the agency for handling in accordance with the standards. Id. The record in this case does not show whether the evidence of SFC Lamb's fraud against the United States was referred directly to the Department of Justice. However, the record does show that Mr. Armstrong alerted the OSI through proper channels of the fraud soon after he was aware of it, and a Memorandum of Understanding between the Department of Defense and the Department of Justice requires the OSI to confer with the Department of Justice when the OSI identifies a fraud against the

Department of Defense that would warrant federal prosecution. Enclosure 1 to Department of Defense Directive 5525.7, January 22, 1985. Since the OSI was required to confer with the Department of Justice when it was informed of the fraud perpetrated by SFC Lamb, we view Mr. Armstrong's referral of the fraud to the OSI as consistent with the Federal Claims Collection Standards. Thus, at least so far as this request for relief is concerned, we are of the view that the Air Force has diligently initiated collection action in this case. Nonetheless, the Air Force should review this matter to identify opportunities to recover taxpayer funds fraudulently obtained by SFC Lamb. B-234962, Sept. 28, 1989.

Sincerely,

Gary L. Kepplinger
Associate General Counsel

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DIGEST

1. We may relieve accountable officers for improper payments where the payments were not the result of bad faith or lack of reasonable care. Where, as here, supervisory accountable officers maintain and supervise an adequate system of procedures to prevent improper payments, we will relieve them of liability for two improper payments for travel advances made by their subordinate cashiers. We will relieve cashiers who processed fraudulent travel vouchers where they followed all prescribed procedures for cashing travel vouchers.

2. The Comptroller General is authorized to deny relief to accountable officers where the Comptroller General concludes that the agency did not diligently carry out collection action under procedures the Comptroller General prescribes. We assess the adequacy of agency collection activities in light of the Federal Claims Collection Standards, 4 C.F.R. Part 101 (1996). The prompt referral of this matter by the accountable officer to the Air Force's Office of Special Investigations conforms to the requirements of the Federal Claims Collection Standards and internal DOD Directives.