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United States General Accounting Office
Washington, DC 20548

B-300677

June 19, 2003

Ms. Margie Gallahan
Chief, Financial Branch
Financial Management Division
United States Secret Service
950 H Street, N.W.
Washington, D.C. 20223

Subject: United States Secret Service Relief of Accountable Officer for Funds Lost in
the Destruction of the World Trade Center

Dear Ms. Gallahan:

This is in response to your April 17, 2003, faxed memorandum requesting relief for Assistant Special Agent in Charge Patrick J. Convery, a cashier for the United States Secret Service New York Field Office, from liability for the physical loss of \$22,646.20 from the Field Office's confidential fund. For the following reasons, we grant relief.

BACKGROUND

The record indicates that the Field Office's confidential fund was maintained to provide for the payment of expenses and rewards for services and information incurred in Secret Service investigations, expenses for unforeseen emergencies, and expenses related to protective intelligence information or assistance used in providing security for Secret Service protectees. Maintaining and administering the funds was part of Mr. Convery's official duties. The funds were kept in a locked safe with limited access. Memorandum from Dana A. Brown, Assistant Director/Chief Financial Officer, Office of Administration, Department of the Treasury, United States Secret Service, to James R. Lingeback, Acting Deputy Chief Financial Officer, Department of the Treasury, October 19, 2001. The locked safe was stored in the New York Field Office, which was located at 7 World Trade Center, 9th Floor, New York, New York. On September 11, 2001, the safe containing the confidential fund in the amount of \$22,646.20 was physically lost when the World Trade Center was destroyed in a terrorist attack. Id.

DISCUSSION

Under 31 U.S.C. § 3527, our Office is authorized to relieve accountable officers of responsibility for a physical loss of government funds if we concur in the determination by the agency that: (a) the loss occurred while the accountable officer was carrying out official duties, and (b) the loss was not the result of fault or negligence on the part of the accountable officer. Once this determination is made, we are authorized to grant relief. See B-265856, Nov. 9, 1995; B-241478, Apr. 5, 1991.

The presumption that accountable officers have been negligent when a physical loss of funds for which they are responsible occurs can be rebutted by evidence to the contrary. B-230796, Apr. 8, 1988. We have previously granted relief to accountable officers when the evidence is clear that an unforeseen or emergency event has occurred beyond the control of the accountable officer. For example, the loss of funds has been determined to have occurred without fault or negligence on the part of the accountable officer, and relief has been granted where the loss was due to a fire (B-212515, Dec. 21, 1983); an attack on or escalating violence involving an embassy or mission overseas (B-249372, Aug. 13, 1992; B-229753, Dec. 30, 1987; B-203726, July 10, 1981; B-194666, Aug. 6, 1979); a theft (B-265856, Nov. 9, 1995; B-261261, Aug. 31, 1995; B-195435, Sept. 12, 1979); and a prison riot (B-232252, Jan. 5, 1989; B-230796, Apr. 8, 1988).

In this case, the Secret Service has made the requisite determination that the loss occurred while Mr. Convery was acting in the discharge of his official duties as cashier and that it was caused by circumstances beyond his control and not attributable to fault or negligence on his part. Since the loss of the confidential fund resulted from the destruction of the World Trade Center, which clearly could not have been predicted or prevented by the cashier, we agree that the loss was not the result of fault or negligence on the part of Mr. Convery.

We therefore grant relief to Mr. Convery in the amount of \$22,646.20. The loss may be charged to the proper appropriation in accordance with 31 U.S.C. § 3527.

Sincerely,

/signed/

Susan A. Poling

Managing Associate General Counsel

DIGEST

Relief is granted to a United States Secret Service New York Field Office cashier for the physical loss of \$22,646.20 in confidential funds. The loss resulted from the destruction of the World Trade Center on September 11, 2001, where the Field Office was then located, and GAO concurs with the U.S. Secret Service that there was no contributing fault or negligence on the part of the cashier.