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United States Government Accountability Office
Washington, DC 20548

B-303671

December 3, 2004

Mr. Selwyn J. Crews
4005 Woodland Creek Dr. SE, #301
Kentwood, MI 49512

Dear Mr. Crews:

This letter responds to your July 12, 2004, letter appealing the adverse determination of liability by the Defense Finance and Accounting Service (DFAS) for the loss of \$218,460, which occurred while you were Disbursing Officer at Personnel Support Detachment (PSD), Naples, Italy. In accordance with section 8.10 of title 7 of GAO's *Policy and Procedures Manual for Guidance of Federal Agencies* (copy enclosed),¹ GAO does not review military disbursing officer physical loss relief requests on a case-by-case basis. GAO has advised the Secretary of Defense that the availability of relief is to be determined by the Secretary of Defense or the secretary of the military department incurring the loss. B-198451, Feb. 5, 1981. The Secretary declined relief in your case based on a finding of negligence, and we defer to the Secretary's decision.²

According to enclosures to your July 12 letter, in September 1995 you attempted to deposit, by mail, \$218,460 with the Federal Reserve Bank of New York, deposit ticket number 368664. The Federal Reserve Bank never confirmed receipt of the deposit, however, and the deposit was never located, resulting in a physical loss to your account. DFAS found that the cause of the loss was your negligent failure to comply with Department of Defense Financial Management Regulations (DODFMR). Bitz Letter. Specifically, DFAS found a violation of DODFMR paragraph 050403, which requires disbursing officers to initiate follow-up action with a depository if the disbursing officer has not received confirmation of a deposit from the depository within a reasonable period of time, but no later than 45 days from the date the deposit was mailed. *Id.* DFAS, accordingly, denied relief. *Id.*

¹ Title 7 of the Policy and Procedures Manual is available at GAO's web site, www.gao.gov.

² The Secretary has delegated relief authority to DFAS. Letter from Gregory B. Bitz, Director of Finance, DFAS, to Selwyn J. Crews, Apr. 6, 2000 (citing DFAS Regulation No. 005, enclosure 11) (Bitz Letter).

Relief of military disbursing officers for physical losses is governed by 31 U.S.C. § 3527(b). Section 3527(b) requires that the Secretary of Defense or the appropriate secretary of the military department determine that the loss (1) occurred in the line of duty, (2) without fault or negligence on the part of the disbursing officer, and (3) was not the result of an improper payment. In military physical loss relief requests in which these administrative determinations are made in the affirmative, the granting of relief follows automatically. B-271859, Sept. 26, 1996. Where the Secretary, or DFAS in his behalf, is unable to agree with any one of the three considerations, relief is not available. In your case, DFAS was unable to find that your loss occurred without fault or negligence. GAO does not review requests for relief of liability from military disbursing officers where the determinations and the subsequent decision to grant or deny relief appear to be properly considered. Your submission provides no basis to suggest that DFAS's decision was improper.

Consequently, we decline to review the decision of the Secretary of Defense denying you relief from liability.

Sincerely yours,

Susan A. Poling
Managing Associate General Counsel

Enclosure

cc: Mr. Robert P. McNamara
Director for Accounting
Defense Finance and Accounting Service

Ms. Jean E. Smallin
Claims Appeal Board
Defense Office of Hearings and Appeals

DIGEST

GAO does not review military disbursing officer physical loss relief requests on a case-by-case basis. GAO, *Policy and Procedures Manual for Guidance of Federal Agencies*, title 7, § 8.10 (May 1993). Where the Secretary of Defense, or the official to whom the Secretary has delegated relief authority, makes certain determinations required by 31 U.S.C. § 3527(b), relief is automatic; if the Secretary is unable to make these determinations, relief is not available. GAO will not review requests for relief of liability from military disbursing officers where the determinations and the subsequent decision to grant or deny relief appear to be properly considered.