



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

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OFFICE OF GENERAL COUNSEL

B-198881

[Request for Relief from Liability for Forest Service Employee]
JUN 18 1980

The Honorable Bob S. Bergland
The Secretary of Agriculture *AGC 02042*

Dear Mr. Secretary:

DLG 03495

This responds to a request from Mr. Dean K. Crowther, Director of the Office of Operations and Finance, Department of Agriculture, for the relief of Imprest Fund Cashier Ms. Michiko Tanizaki, a Forest Service employee at the Mendocino National Forest, Willows, California, from liability for a \$857.25 loss in her account. For the reasons that follow, relief is granted.

DLG 03975

The record indicates that the loss resulted from a burglary at the Mendocino National Forest Supervisor's Office. Sometime during the night of June 22, 1979, a locked safe containing the cashier's funds was removed from the office and taken to a nearby automotive shop. The automotive shop was broken into and the safe was forced open by using a cutting torch located in the shop. The record does not indicate how the burglars gained access to the supervisor's office.

We have authority under 31 U.S.C. § 82a-1 (1976) to grant relief to accountable officers from liability for the physical loss of funds upon our concurrence with the agency head or his delegate:

"(1) that such loss or deficiency occurred while such officer or agent was acting in the discharge of his official duties or that such loss or deficiency occurred by reason of the act or omission of a subordinate of such officer or agent; and (2) that such loss or deficiency occurred without fault or negligence on the part of such officer or agent."

Mr. Crowther has determined pursuant to 31 U.S.C. § 82a-1, that the loss occurred while Ms. Tanizaki was acting in the discharge of her official duties and without fault or negligence on her part. We concur.

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While there is a presumption that an accountable officer has been negligent in the loss of any funds for which he or she is responsible, it is rebuttable by evidence to the contrary. 54 Comp. Gen. 112, 115 (1974). We have previously granted relief to accountable officers where the evidence is clear that a theft took place and an investigation has revealed no connection between the accountable officer and the theft. B-184274, September 29, 1975; B-189795, September 23, 1977.

In the instant case, there is clear evidence of theft by forcible entry into the safe. The record supports the administrative determination that Ms. Tanizaki was not negligent in any way in the performance of her custodial duty regarding the stolen funds. The Willows Police Department concluded that Ms. Tanizaki was out-of-town at a training session at the time of the burglary, and no other evidence has been disclosed which would implicate either her or alternate cashier Ellie McGill in the theft. In fact, the police investigation resulted in the arrest of three persons on suspicion of the burglary.

Therefore, we concur in the administrative determination that Ms. Tanizaki should be relieved of liability in this case. The loss should be charged to currently available appropriations in accordance with the last sentence of 31 U.S.C. § 82a-1.

Sincerely yours,

Harry R. Van Clevé

For
Milton J. Socolar
General Counsel