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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL
B-199542

[Request for Relief From Indebtedness]

NOV 7 1980

Colonel R. P. Dixon, Jr.
Deputy Commander for Operations
Department of the Army
U.S. Army Finance and Accounting Center
Indianapolis, Indiana 46249

Dear Colonel Dixon:

This responds to your letter requesting that relief be granted, pursuant to 31 U.S.C. § 82a-2, in the amount of \$835.26 on behalf of Lieutenant Colonel E. L. Davidson, FC, and Lieutenant Colonel R. L. Kelley, FC, Finance and Accounting Officers at the U. S. Army Engineer Center at Fort Belvoir. The shortage is because of a duplicate payment made to Mr. James H. Horton.

On November 16, 1973, a Treasury check was issued to Mr. Horton for wages against LTC Kelley's accounts. On November 26, 1973, a replacement check was issued to Mr. Horton, apparently on the basis of his claim that he did not receive the first check. It was later established that both checks were endorsed and cashed by Mr. Horton. Your letter indicates that at this time Mr. Horton's whereabouts are unknown, so that the money cannot be recovered. You have determined, under authority delegated by the Secretary of the Army (Army Regulation 37-103, section 3-157a(3)(b)), that the improper check payment was not the result of bad faith or lack of due care on the part of either Finance and Accounting Officer.

Under the applicable Army regulation, a Finance and Accounting Officer is authorized to issue a duplicate check upon receipt of a statement by the payee that he has not received the original and that he requests that payment be stopped on it. AR 37-103, section 4-164. Apparently because of the delay in submitting this request, the written evidence that the regulation was complied with is no longer available. However, because of the operation of the statute of limitations, the account of LTC Kelley must be regarded as settled.

Our authority to settle the accounts of an accountable officer, and hence to grant or deny relief, is limited to a 3-year period by 31 U.S.C. § 82i (except when a loss is due to fraud or criminality of the accountable officer). It is no longer required that accounts of accountable officers be physically transmitted to this Office. Rather, they are retained by the various agencies where they are

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B-199542

subject to audit and settlement by GAO. Accordingly, we consider the date of receipt by the agency of substantially complete accounts or, where accounts are retained at the site, the end of the period covered by the account, as the point from which the 3-year period established by 31 U.S.C. § 82i begins to run. B-181466, July 10, 1974; 3 GAO Manual § 69.1, footnote 1.

In this case, since there is no evidence of fraud or criminality by the disbursing officer, the statute of limitations (31 U.S.C. § 82i) means that LTC Kelley's account for 1973 must be regarded as settled. There is no occasion to consider a relief request with regard to this account.

To avoid this kind of problem, the GAO Policy and Procedures Manual calls for prompt reports of financial irregularities, both to avoid the running of the statute of limitations and to determine more quickly whether relief should be granted or denied. Thus, we require a report of irregularities (which have not been resolved administratively) 2 years after the date the accounts are made available to this Office for audit. 7 GAO Policy and Procedures Manual § 28.14; B-161457, August 1, 1969. (Fraud or other serious irregularities of substantial amount or significance must be reported as soon as possible.) Here, the administrative report says that corrective measures have been taken, so that personnel are now aware of the need for timely action. However, it is not clear whether the local command recognizes that there was unacceptable delay not only in reporting to us but in pursuing the aggressive action to collect from the payee which is required by the Claims Collection Act (31 U.S.C. § 952) and implementing regulations (4 C.F.R. § 102.1).

Sincerely yours,

Harry R. Van Cleve

For Milton J. Socolar
General Counsel