



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-261312

February 5, 1995

Steve E. Turner
Director, Defense Finance
and Accounting Service
Department of Defense
Kansas City, Missouri 64197-0001

Dear Mr. Turner:

This responds to your request that we grant relief, under our authority in 31 U.S.C. § 3527(c), to Shirley Ibach, Defense Accounting Officer, Marine Corps Air Station (MCAS), El Toro, California, from liability for four improper payments totalling \$13,204. For the reasons stated below, we grant relief. We also grant relief to the cashier, LCpl. Miguel Muniz, who actually made the improper payments.

The improper payments occurred on February 19, 1993, as a result of a fraudulent scheme by Pvt. James Burks representing himself as a Sgt. Thomas Campbell. The improper payments were made after Pvt. Burks presented four sets of travel orders, for \$3,301 each, to the cashier in the finance office at MCAS El Toro, and explained that he and three other Marine sergeants were temporarily in the Los Angeles and San Diego areas participating in training activities. Pvt. Burks stated that he was the only one of the four allowed to leave the training sessions and that he was responsible for retrieving all four travel advances. The cashier advised Pvt. Burks that the checks would not be ready until later in the day and that he would need to have a written authorization from the other sergeants if he planned to pick up their advances.

That afternoon, Pvt. Burks returned and produced a handwritten letter bearing the purported signatures of the other three marines granting him the authority to retrieve their checks. After presenting the letter, a forged armed forces identification card and Sgt. Campbell's social security number to the cashier, Pvt. Burks was allowed to sign for the four checks. The cashier examined the

letter, identification card and signature, and compared them against the information contained in the travel orders. Based on this examination, he turned the four checks over to Pvt. Burks.

The fraud was discovered 3 days later, when the automated Marine Corps Expenditure System identified improper appropriation account data on the travel orders and rejected them. Pvt. Burks was apprehended after attempting to use the same scheme to obtain approximately \$15,000 in travel advances at Port Hueneme, California. A search of his vehicle at the time of his arrest uncovered forged armed forces identification cards, fraudulent travel orders, and other evidence that led to his eventual court martial, imprisonment, forfeiture of pay, and dishonorable discharge. Although the disbursing official attempted to collect the \$13,204 from Pvt. Burks's pay, she was unsuccessful because Pvt. Burks's pay had been forfeited.

As the disbursing official responsible for the accounts, Ms. Ibach is personally liable for deficiencies in her accounts caused by the improper payments. The cashier who made the improper payments is also liable as a disbursing official for the amount of the payments, and consequently, we address his liability even though you did not request that we relieve him. See B-248532, Oct. 26, 1992. This Office has authority under 31 U.S.C. § 3527(c) to relieve a disbursing official from liability for improper payments if we determine that the payments were not the result of bad faith or a lack of reasonable care. B-246418, Feb. 3, 1992.

In cases where a subordinate rather than the disbursing official actually disbursed the funds, we have granted relief upon a showing that the disbursing official properly supervised the subordinate, maintained an adequate system of procedures and controls to safeguard the funds, and took steps to ensure the system's implementation and effectiveness. B-240654, Feb. 6, 1991. The good faith and reasonable care of the cashier who made the payment can be shown by evidence that the cashier complied with these procedures, and that nothing occurred which should have made the cashier suspicious of fraud. B-241880, Aug. 14, 1991.

The supporting documents establish that Ms. Ibach implemented and maintained an adequate system of procedures and controls to reasonably safeguard the funds in her care, and that the cashier followed the procedures. Moreover, nothing in the record suggests that the cashier should have been suspicious of the fraudulent nature of the transaction. In this case, the improper payments were apparently the result of skillfully executed criminal activity that even an adequate and effectively supervised system cannot always prevent. B-240280, May 22, 1991.

Accordingly, since there is no indication of bad faith or lack of reasonable care on the part of Ms. Ibach or the cashier, we grant relief to them from liability for the loss. However, as a practical matter, the disbursing official may want to consider

several measures to limit losses in her account should such criminal activity occur in the future. Those measures could include, for example, 1) a limit on the travel advance amount that may be picked up by a third party and 2) a restriction on the availability of travel advances that may be picked up by third parties who are not assigned to the military base where the finance center is located.

Sincerely yours,

Gary L. Kepplinger
Associate General Counsel

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Relief is granted disbursing official who implemented and maintained an adequate system of procedures and controls to reasonably safeguard the funds in her care.

We also grant relief to the cashier.