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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-201913

The Honorable Donald T. Regan
Secretary of the Treasury

June 15, 1981

Dear Mr. Secretary:

This is in response to a letter from Paul H. Taylor, Fiscal Assistant Secretary, Department of the Treasury, requesting relief in the amount of \$2,620.00 charged to the account of Mr. Norman E. Morrill, director of the Philadelphia Service Center, Internal Revenue Service. Although Mr. Morrill is the accountable officer for the funds in question, the loss occurred in the mailroom of the U.S. Consulate General in Sao Paulo, Brazil. For the reasons stated below, relief is granted.

The record submitted indicates that the Internal Revenue Service (IRS) office in Sao Paulo, Brazil, reached an informal agreement with the Disbursing Office at the American Embassy in Brasilia, Brazil, for the conversion of cash collected by IRS into U.S. Treasury checks. This arrangement involved IRS transmittal of funds by registered diplomatic mail to the Disbursing Office where, upon receipt, the Disbursing Office issued a check payable to the IRS and sent it to the Sao Paulo IRS office through the U.S. Consulate General's mailroom. The entire procedure was necessary because Brazilian banks would not convert cash into checks payable in U.S. dollars.

Pursuant to this arrangement, the IRS office in Sao Paulo mailed \$2,620.00 in tax collections by registered diplomatic pouch to the Disbursing Office at the American Embassy. The transmittal letters in each instance requested that a U.S. Treasury check payable to IRS be issued and then forwarded to the IRS office at the U.S. Consulate in Sao Paulo. Instead of issuing the checks, the disbursing officer at the Embassy, Ms. Ina Jean Kinsey, returned the cash to the IRS office in Sao Paulo by registered diplomatic mail, apparently because she was unaware of the arrangement with IRS. She suggested that taxpayers be required to pay by dollar check. Ms. Kinsey mailed the money in three diplomatic pouches under cover of memoranda dated January 18, 1980, and January 28, 1980, but the money was never received in the IRS office in Sao Paulo. An IRS investigation of the loss concluded that the money was stolen in the U.S. Consulate General's unclassified mailroom in Sao Paulo. An employee of the mailroom was suspected of the thefts although the evidence was insufficient to support criminal prosecution. The suspect subsequently resigned his job without repayment of any of the money. The investigation further concluded that there was no negligence or intent of fraud on the part of any IRS employees.



[Request for Relief From Liability]

017259

B-201913

Accountable officers are personally liable for the physical loss of public moneys entrusted to their care. However, under the provisions of 31 U.S.C § 82a-1, this Office may relieve an accountable officer from liability if we agree with the determination by the head of the agency involved,

"* * *(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.* * *"

Based on the above-mentioned information, the Treasury Department has determined that the loss of funds was attributable to a theft and not through fault or negligence on the part of Mr. Morrill, the accountable officer. Treasury further concluded that the loss occurred while Mr. Morrill and his subordinates were acting in the discharge of their official duties. Therefore the Department has recommended that Mr. Morrill be relieved of liability for loss of the \$2,620.00

The funds in question were never in Mr. Morrill's physical custody. Further, there is no evidence that he was negligent or at fault in the performance of his official duties. Therefore, we concur in the Department's determination, and grant relief to Mr. Morrill under the provisions of 31 U.S.C § 82a-1.

Sincerely yours,

Harry R. Van Cleve

Harry Van Cleve
Acting General Counsel