



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

Office of the General Counsel

B-271896

March 4, 1997

Sidney Kaplan
Chairman
Committee of Inquiry Into Fiscal Irregularities
Department of State

Dear Mr. Kaplan:

This is in response to your request that we grant relief from liability under 31 U.S.C. § 3527 to Ms. Vilma Gautreau, Class B Cashier, at the American Embassy in Santo Domingo, Dominican Republic, for the unexplained loss of 119,036 Dominican Republic pesos, worth \$15,835, from her account. As explained in further detail below, we grant relief because we agree with your finding that Ms. Gautreau's actions were not the proximate cause of this loss.

As noted above, the exact cause and nature of this loss is not known despite an Embassy investigation following the discovery of the loss. What is known is that on April 28, 1992, an unannounced audit of Ms. Gautreau's cash account was conducted by the Embassy's Budget and Fiscal Officer, revealing a shortage of local currency funds worth \$15,835. (The United States currency account did not have a shortage.) The audit consisted of a cash count of both the local and U.S. currencies, and a reconciliation of the paid vouchers, "in-transit vouchers," and collections. The cash count was repeated a few days later, with no success at reconciling the shortage. Unfortunately, the budget officer departed for a planned vacation shortly after he discovered the loss and was not available to help the cashier in her efforts to reconcile the shortage. Upon returning from his vacation, the budget officer reported the shortage on June 9, 1992.

Following a review of the situation, the Regional Administrative Management Center for the American Embassy, Federal District of Mexico, (RAMC) was not convinced that a shortage actually existed. RAMC advised the Embassy to limit cashier hours and activate an alternate cashier to receive consular receipts in order to alleviate the extremely heavy workload with which Ms. Gautreau had to deal. This recommendation was based, in part, on a prior fact-finding trip conducted between October 28 and November 8, 1991. (A disbursing official of RAMC conducted a fact finding trip to review the cashier functions at the American Embassy in Santo

Domingo.) The RAMC report concluded that the cashier, Ms. Gautreau, faced a heavy workload, there was insufficient staffing which caused delays in processing transactions, and deposits were not made on a timely basis. RAMC recommended that the Embassy ensure that the cashier was able to keep the documentation current and that the cashier have sufficient uninterrupted time to keep up with her paperwork.

Based on your Committee's review of the circumstances of this shortage, you have concluded that the loss occurred in the performance of Ms. Gautreau's official duties and was not the result of an illegal or incorrect payment. Rather, you have concluded that the loss occurred because of the pervasive laxity with which the Embassy managed the cashier's office. The Committee recommended that Ms. Gautreau be relieved of liability for the loss and that the Embassy's Budget and Fiscal Officer be reprimanded for failure to follow prescribed procedures. The Committee also noted the lack of effective oversight provided by Embassy management officials, and, in particular, Embassy management's repeated failure to implement the applicable fiscal regulations or follow the Committee's recommendations for corrective action.

This Office is authorized to grant relief from liability upon its concurrence with determinations by the department or agency that (1) the loss or deficiency occurred while the accountable officers or agents were acting in the discharge of their official duties, or that it occurred by reason of the acts or omissions of subordinates, and (2) that the loss or deficiency occurred without fault or negligence on the part of the accountable officers. 31 U.S.C. § 3527(a) (1994). As stated above, this shortage is an "unexplained loss." A loss of funds without explanation gives rise to a rebuttable presumption of negligence on the part of the officers accountable for the funds. B-235147, August 14, 1991. The accountable officer must rebut this presumption with evidence to the contrary. *Id.* We have relieved accountable officers from liability even if they are found to have neglected their duties, if their negligence is not the proximate cause of the loss or shortage. *E.g.*, 63 Comp. Gen. 489, 492 (1984). Thus, where the facts and circumstances surrounding a loss indicate pervasive laxity in the supervision and management of the cashier's office and neither the acts nor omissions of the accountable officer can reasonably be said to have been proximate cause of the loss, we have relieved the accountable officer. B-232744, Dec. 9, 1988.

The record clearly evidences the lack of concern on the part of Embassy management for the security and proper management and operation of the cashier's

office.¹ Among the findings documented in the record of the Department's investigations was that RAMC continually reminded the Embassy of its responsibilities, but Embassy management continually ignored both State Department regulations and RAMC recommendations to take corrective action. In particular, Embassy management did not provide proper safeguard for the cashier's office. For example, it allowed Embassy employees access to the cash area of the cashier's office and the cashier's safe combination lock was broken for more than a week. RAMC also found that insufficient staffing caused delays in processing transactions and that deposits were not made on a timely basis. Embassy management did not ensure that the alternate cashier was sufficiently trained. It did not allow the cashier's office to close early enough to conduct daily reconciliations of the office's transactions. Most significant, however, is the fact that top-level officers of the Embassy did not take any corrective action in response to repeated admonishments from the RAMC to correct these problems.²

You have advised us that new internal control procedures for cashiers have been implemented in the Santo Domingo Embassy in order to avoid future problems. These new procedures include (1) providing two Class B cashiers, a primary and an alternate, who are now responsible for making daily collections and reconciliations; (2) closing the cashier's office early while daily reconciliations are prepared; (3) providing of proper safeguards, including a separate office and safe for the cashiers; and (4) performing monthly reconciliations by the Embassy's new Budget and Fiscal Officer. Memorandum to Cheryl Kelley, International Financial Services Branch, Department of State, from Roman Otchych, Budget and Fiscal Officer, U.S. Embassy, Santo Domingo (Jan. 22, 1997).

¹The 1991 field report on the cashier's office filed by the RAMC disbursing official stated that Ms. Gautreau "has 12 years of banking experience . . . I saw her work with professionalism and a great deal of responsibility"

²Accordingly, RAMC recommended that Ms. Gautreau be relieved of all responsibility for the loss. RAMC also recommended that the Embassy's Budget and Fiscal Officer be reprimanded and a demand for restitution be made for failure to follow prescribed procedures. Lastly, RAMC recommended that the previous Ambassador be reprimanded for assessing administrative penalties against Ms. Gautreau without adjudication and for his lack of oversight of the above-named parties.

Since the proximate cause of this loss was not the negligent acts of Ms. Gautreau, but rather the general lack of concern and the sense of laxity which pervaded the Embassy's operation and management of the cashier's office, relief is granted pursuant to 31 U.S.C. § 3527(a). You should take action to ensure that any amounts collected from Ms. Gautreau are reimbursed to her.

Sincerely,

Gary L. Kepplinger
Associate General Counsel