



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

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IN REPLY  
REFER TO: B-194877

JUL 12 1979

10,738

OFFICE OF GENERAL COUNSEL

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The Honorable W. Michael Blumenthal  
The Secretary of the Treasury

AGC00038

Dear Mr. Secretary:

Personal  
name

This replies to the request by the Fiscal Assistant Secretary of the Department of the Treasury that relief be granted under 31 U.S.C. § 82a-2 (1976) for the erroneous payment of \$619.60, chargeable to the account of Robert Pacheco, former Director of the Chicago Disbursing Center. The request recites the required finding that the improper payment was not the result of bad faith or lack of due care on the part of Mr. Pacheco. It further states that should relief be granted, the erroneous payment will be charged to the appropriation for Salaries and Expenses, Bureau of Government Financial Operations. For the reasons indicated below, the requested relief is granted.

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156-0217

On January 9, 1974, based on a request by the Veterans Administration Regional Office in Cleveland, Ohio, the Chicago Disbursing Center, Department of the Treasury, issued emergency Veterans Administration educational payments to Donald A. Lunt and David L. McDonald. Mr. Lunt was scheduled to receive \$924.00. However, during the processing of the checks the amounts were switched and a check for \$924.00 was issued to Mr. Lunt and a check for \$104.40 was issued to Mr. McDonald. The error was discovered when Mr. McDonald filed a claim of non-receipt.

It appears from the record that a subordinate, rather than Mr. Pacheco, actually prepared the checks. It further appears that Mr. Pacheco did not personally verify the amounts of the checks before they were issued.

The Chicago Disbursing Center, assisted by the Veterans Administration and the United States Secret Service, attempted to recover the overpayment of \$819.60 from Mr. Lunt. Between September 3, 1975, and April 4, 1976, Mr. Lunt repaid \$200 of the overpayment, leaving a balance of \$619.60. Mr. Lunt made no additional payments and further collection attempts were unsuccessful. A final collection letter sent to Mr. Lunt on August 17, 1978, was returned by the Postal Service marked "Undeliverable." Collection efforts were then terminated.

LETTER

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[REQUEST for Relief of  
ERRONEOUS Payment]

A disbursing officer is personally liable for deficiencies in his accounts caused by illegal, improper, or incorrect payments. However, under the provisions of 31 U.S.C. § 82a-2 (1976), this Office is authorized to grant relief from liability upon a determination that the payment was " \* \* \* not the result of bad faith or lack of due care on the part of such disbursing officer \* \* \*." See generally, 54 Comp. Gen. 112 (1974).

In applying 31 U.S.C. § 82a-2 to instances in which a subordinate actually disburses funds rather than the disbursing officer himself, we have granted relief upon a showing that the disbursing officer properly supervised his subordinates by maintaining an adequate system of procedures and controls to avoid errors, and took steps to see that the system was effective and being followed. E.g., B-192109, October 11, 1978; B-187180, September 21, 1976.

The Memorandum of Facts accompanying the Assistant Secretary's request states:

"Procedures outlined for verification in Part III, Chapter 2 of the Division of Disbursement Procedures Manual, have proved to be effective and along with the presence of trained supervisors, are felt to be adequate for the proper and secure processing of miscellaneous checks. The matter and the need for careful attention to the verification process were discussed with the applicable employees and supervisors."

From the record, it appears that Robert Pacheco maintained an adequate system designed to avoid errors, and that he adequately supervised his subordinates so that the system was followed. Considering the scope of operations of the Chicago Disbursing Center, Mr. Pacheco cannot be expected to have personally inspected every check issued. In short, the error which resulted in the overpayment in this instance was the kind that will occasionally occur in even the most carefully established and efficiently supervised system. Accordingly, we conclude that the erroneous payment was not the result of bad faith or lack of due care on the part of Mr. Pacheco.

We also find that the Department of the Treasury has pursued diligently the collection of the claim within the meaning of 31 U.S.C. § 82-a. The decision to terminate collection efforts against Mr. Lunt appears to comply with 31 U.S.C. § 952(b) (1976), and the procedures set forth in 4 C.F.R. § 104.3.

B-194877

For the reasons stated, we relieve Mr. Robert Pacheco, former Director of the Chicago Disbursing Center, from liability for the erroneous overpayment of \$619.60 to Mr. Donald A. Lunt.

Sincerely yours,

MILTON SOCOLAR

Milton J. Socolar  
General Counsel.

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Director of Chicago Disbursing Center is relieved of liability for erroneous overpayment of emergency Veterans Administration educational payments where he maintained and supervised adequate system designed to prevent errors, and scope of operations was too extensive to permit him to verify each check issued.