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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-197324

Mr. Calvin J. Dorn, Director
Accounting Division
Office of the Comptroller
The Department of the Treasury
Washington, D.C. 20026

MAR 7 1980

~~AGC 00038~~
DLG 04072

Request for Relief

Dear Mr. Dorn:

This is in response to your request that our Office relieve the Regional Commissioner of Customs, Miami, Florida, of liability for the loss of \$750.80 in his account, resulting from an uncollectible debit voucher, number 78-324.

The shortage of \$750.80 resulted from two personal checks drawn on the Republic Bank & Trust Co., Charlotte, North Carolina, being accepted by a customs officer at San Juan Airport, Puerto Rico, on August 26, 1978, from a person falsely claiming to be Debra M. Dry. One check for \$50.80 was for payment of duties and the other, in the amount of \$700, was for payment of penalties assessed for failing to declare merchandise. The checks were dishonored and returned by the bank due to unauthorized signatures. An investigation revealed that Debra Dry's checkbook and credit cards had been stolen in August 1978, and that she was not the person who issued the checks.

According to your letter, the checks were accepted in accordance with Title 19, Code of Federal Regulations, Section 24.1(a)(4), which requires only that Customs employees request sufficient identification to verify the identity and signature of the person tendering a check. You concluded that this requirement was met by the Customs employee accepting the check, and you determined that there was no fault or negligence on his part.

The General Accounting Office is authorized by 31 U.S.C. § 82a-1 to grant relief from liability to an accountable officer only upon its concurrence with determinations by the department or agency head that (1) the loss or deficiency occurred while the officer or agent was acting in the discharge of his official duties, or that it occurred by reason of the act or omission of or subordinate of the officer or agent, and (2) the loss or deficiency occurred without fault or negligence on the part of the officer or agent.



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We agree with your finding that the Regional Commissioner suffered a loss of \$750.80 in his account through no fault or negligence on his part and grant relief to him. However, the record does not support the finding that the customs officer at the airport who accepted the checks, and who was in his own right an accountable officer, was not negligent. If, as you report, this officer complied with the regulation requiring that he verify the signature and identity of the person tendering the check, then it is not clear why the officer failed to notice a discrepancy between the signature on the check and the signature on the New York driver's license which was apparently used for identification.

In this connection, you say that the employee complied with 19 CFR § 24.1(a)(4) which requires him to verify the signature and identity of the person tendering Government checks, domestic traveler's checks, and money orders. Under 19 CFR § 24.1(b), however, there is an additional requirement, when a personal check for more than \$100 is accepted at an airport, as was the case here, that the Customs employee show his name and badge number on the check and that he obtain the approval of the Customs officer in charge "who shall also personally verify the identification data and indicate his approval by initialing the collection voucher." The photocopies of the check and the collection voucher are imperfect but we can find no indication that the officer complied with the requirement for verification by the officer in charge. Thus, there is apparent negligence by the Customs officer both in failing to observe the forgery and in failing to obtain his superior's approval, as required.

On this record, it appears that the officer who accepted the checks is liable for the loss. We will of course consider a request for relief if additional evidence accounts for the apparent negligence but, failing that, you should recover the loss from the officer.

Sincerely yours,

Harry R. Van Cleve
Milton J. Socolar
General Counsel