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



IN REPLY REFER TO: B-195662

OFFICE OF GENERAL COUNSEL

JUL 21 1980
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Mr. William A. Medina
Assistant Secretary for Administration
Department of Housing and
Urban Development
Washington, D.C. 20410

[REQUEST FOR RELIEF]

Dear Mr. Medina:

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This responds to your letter of June 14, 1979, (reference: AFG) forwarded to us from Mr. Robert B. Burrill, Chief Disbursing Officer, Bureau of Government ~~Financial Operations, Department of the Treasury,~~ requesting that we grant relief to Verna L. Stephens, the Principal Cashier at the Los Angeles Area Office (LAAO) of the Department of Housing and Urban Development (HUD) for a loss of \$751.46 from the Imprest Fund. Your letter indicates that you have determined that Ms. Stephens was without fault or negligence in causing the loss and that she was acting in the discharge of her official duties when the loss occurred. We concur with your determinations, and grant relief to Ms. Stephens as requested.

The record indicates that the Imprest Fund was in a safe in room 446 of the LAAO at the close of business on April 18, 1979. Ms. Stephens discovered that the entire safe containing the Imprest Fund was missing upon entering her office at 7:30 a.m. the following morning. According to Ms. Stephens, as the last person to leave room 446 at 4:25 p.m. on April 18, she checked to be sure that the door was locked when she closed it behind her. HUD officials conclude that the safe was stolen sometime between 5:30 p.m., on April 18, and 6 a.m., the following morning.

At the time of the loss, HUD did not require its employees to sign out when leaving the LAAO for the day. Therefore, HUD could not determine which employees, if any, were in the building when the Imprest Fund was stolen. Access to the building was very easy to obtain even after its doors were locked for the evening.

The Los Angeles Police conducted an investigation shortly after Ms. Stephens discovered the theft. The Police record, prepared following the investigation, indicates that there was no damage to the lock on the door to the room which held the safe. Ms. Stephens stated at the time that while she locked the room door, she did not set the dead bolt on the door when she left work the evening before.

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The investigating officer concluded that a shim or key was used to gain entry. The dimensions of the stolen safe are shown in the report as 17" by 12-1/2" by 12", and its weight is given as approximately 150 pounds.

31 U.S.C. § 82a-1 authorizes this Office to relieve an accountable officer or agent charged with responsibility for the physical loss of Government funds if it concurs with the determinations of the head of the Officer's department or his delegee that the loss occurred while the officer was acting in the discharge of his official duties and without fault or negligence on his part.

We agree that Ms. Stephens was not negligent or otherwise at fault in causing the loss of the Imprest Fund from her office. For purposes of our granting relief, we do not consider an accountable officer to be negligent, if he or she has taken adequate steps, in accordance with agency procedures and regulations, to safeguard the funds in his or her custody against risks of loss which are reasonably foreseeable. We recognize that in this case the loss might have been prevented if Ms. Stephens had set the dead bolt when she left the office on April 18 because the thieves, using only a shim or duplicate key, might not have been able to release the dead bolt, and thereby gain entry to room 446 to remove the safe. However, the duty to lock the room door at the end of the day was a duty imposed on all occupants of the room, according to the administrative report, and not a specific duty of Ms. Stephens in her capacity as accountable officer. Apparently, a number of persons share the office space where the safe was kept and the last one out was enjoined to lock the door. It appears to us that Ms. Stephens did follow all the procedures prescribed specifically for accountable officers. She placed the fund in a safe provided by the Government for the purpose and locked it (the fact that the entire safe was missing corroborates her assertion that she locked the safe), and also locked the door to the room containing it. In our view, she took reasonable precautions to secure the funds in her care.

Accordingly, we concur with the determination that the loss was not the result of negligence on Ms. Stephens' part, and we therefore grant relief to her.

Sincerely yours,

MILTON SOCOLAR

Milton J. Socolar
General Counsel

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DIGEST

Class "B" cashier who locked imprest fund in 150lb. safe, locked door to office, and then discovered entire safe missing on entering office next morning may be granted relief even though her failure to set dead bolt on office door may have facilitated entry of the door to office. We hold that she took adequate steps to safeguard funds and followed all prescribed procedures for accountable officers. Locking room door was duty imposed on all occupants of room, including cashier, but not in her capacity as accountable officer.