



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

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OFFICE OF GENERAL COUNSEL

August 27, 1980

B-198582

*[Request for Relief From Liability]*

The Honorable Robert E. Chasen  
Commissioner of Customs  
U.S. Customs Service  
Department of the Treasury

Dear Mr. Chasen:

This is in response to a letter from Mr. Ralph E. Crews, Acting Director, Accounting Division, Office of the Comptroller, U.S. Customs Service (ref. FIS-4-12-AAO RCM), requesting that relief from liability be granted to the Regional Commissioner of Customs, New York, for a deficiency of \$661.44 in his account. For the reasons that follow, relief is granted.

The record indicates that on August 19, 1977, Mr. Rudy Chiodo tendered a check at JFK Airport drawn on the account of Scientific Instruments Corporation in the amount of \$661.44, for the payment of certain Customs penalties. The bank on which the check was drawn, CIT National Bank of North America, Yonkers, New York, dishonored the check due to insufficient funds. Consequently, a debit voucher was issued, and an investigation was conducted, without success, to locate the drawer and to obtain restitution.

While a lookout was established at all Customs locations, the investigation was terminated and the claim closed as uncollectible. It is the apparent practice of the Customs Service to hold Regional Commissioners responsible for collection accounts, including deficiencies in those accounts due to non-payment of checks received.

The General Accounting Office is authorized by 31 U.S.C. § 82a-1 to grant relief from liability to an accountable officer 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 a subordinate of the officer or agent, and (2) the loss or

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deficiency occurred without fault or negligence on the part of the officer or agent.

According to your agency, the check was accepted in accordance with Title 19, Code of Federal Regulations, Section 24.1(a)(4), which requires that Customs employees request certain evidence to verify the identity and signature of the person tendering a check. Your agency concluded that this requirement was met by the Customs employee accepting the check, and determined therefore that there was no fault or negligence on his part. Under 19 C.F.R. § 24.1(b), however, there is an additional requirement that, when a personal check for more than \$100 is accepted at an airport, as in the instant case, the accepting Customs employee must note his name and badge number on the check, and must obtain the approval of the Customs officer in charge "who also shall personally verify the identification data and indicate his approval by initialing the collection voucher." The documents submitted to us indicate that the employee did not comply with this provision.

The requirements of 19 C.F.R. § 24.1(b) are aimed only at proper identification of the individual tendering a personal check, that is, they are designed to provide safeguards against improper or unauthorized signatures. They provide no protection against the dishonoring of a check for insufficient funds. Since the check here was dishonored for insufficient funds, the apparent negligence of the employee in failing to comply with the regulations was not the proximate cause of the loss.

Accordingly, we conclude that the loss in this case was not the direct result of any negligence on the part of the Regional Commissioner or his employees, and grant the relief requested.

Sincerely yours,

*for* Harry R Van Cleave  
Milton J. Socolar  
General Counsel