

ms. Rogers

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**GAO**

United States General Accounting Office  
Washington, DC 20548

Office of  
General Counsel

In Reply  
Refer to: B-197616

February 24, 1981

*[Request For Relief From Liability]*

Mr. Calvin J. Dorn  
Director, Accounting Division  
Office of the Comptroller  
U.S. Customs Service  
Department of the Treasury

*DL606238*

Dear Mr. Dorn:

This is in response to your request that our Office relieve the U.S. Customs Service Regional Commissioner, San Francisco, of liability for a shortage of \$804.76 in his account, resulting from a physical loss of funds.

*DL6000*

Customs receipts in the amount of \$1,084.76 disappeared on October 14, 1976, while in the custody of Mr. Sidney L. Brown, a Customs messenger. The Customs Service succeeded in recovering \$280 of this amount through its recovery procedures for lost checks, and \$804.76 remains uncollected.

An investigation conducted by the Customs Office of Investigations, San Francisco, failed to establish who took the funds. However, the facts indicate that the loss was due to the negligence of the Customs messenger in leaving the receipts unattended. It is not possible to recover the money from the Customs messenger because he has since resigned and the 3-year statute of limitations has run. The delay in not proceeding against the messenger for restitution initially was due to administrative attempts to recover the missing funds from other Customs officials.

The General Accounting Office is authorized by 31 U.S.C. § 82a-1 to grant relief from liability to an accountable officer if we concur with determinations by the agency head that (1) the loss or deficiency occurred while the officer or agent was acting in the discharge of his official duty, or that it occurred by reason of the act or omission of a subordinate of such 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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The Regional Commissioner, while having overall supervision of this account, was not in any way involved in handling these funds and was clearly not responsible for the loss. Therefore, we agree with your determination that the shortage in the account of the Regional Commissioner occurred through no fault or negligence on his part. Moreover, since over 3 years have elapsed since the loss, his account is legally deemed settled. 31 U.S.C. § 82i (1976). Accordingly, relief is granted to him in the amount of \$804.76.

Sincerely yours,

*Harry R. Van Cleave*

For Milton J. Socolar  
General Counsel