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United States General Accounting Office  
Washington, DC 20548

Office of  
General Counsel

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In Reply  
Refer to: B-199128

NOV 7 1980

The Honorable James B. King  
Chairman, National  
Transportation Safety Board

AGC 00433

*[Request for Relief From Liability]*

Dear Mr. King:

This is in response to a letter from B. Michael Levins, Director, Bureau of Administration, requesting that Class "B" Cashier Elaine Jefferson, a Board employee, be relieved from liability for a \$610.43 imprest fund loss. For the reasons that follow, relief is granted.

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According to the record, the loss could have occurred at any time between 3:30 p.m., July 18, and 11:00 a.m., July 19, 1979. At approximately 3:30 p.m. on July 18, Mrs. Jefferson placed her cash box in the second drawer of her safe and closed it. Mrs. Jefferson, however, did not actually lock this drawer or the safe until 4:50 p.m. on the same day. Upon leaving at 4:50 p.m., Mrs. Jefferson locked the drawer and the outer door to the safe. At 5:00 p.m., Ms. Isler, the Accounting Officer, checked to assure that the safe was locked, and then locked the office door.

On the following morning, July 19, Mrs. Jefferson arrived at the office at 8:10 a.m., and unlocked the door to the office. She did not notice anything unusual. After opening the outer door of the safe, Mrs. Jefferson left the office to eat breakfast about 8:20 a.m. Since another employee was in the office, Mrs. Jefferson did not lock the outer safe door. The cash box drawer was locked. At approximately 11:00 a.m., Mrs. Jefferson unlocked the cash box drawer of the safe and discovered that all cash was missing except for a few pennies. Ms. Isler, the Accounting Officer, was called upon immediately to check the cash box to assure that there was no mistake. Upon inspection of the office premises, Ms. Isler thought that the door had been tampered with but there was no indication that the safe or the cash box drawer had been forced or tampered with.

Subsequently, Ms. Isler notified the local police, building security, the Federal Bureau of Investigation, and the Secret Service, of the apparent burglary. To date, their investigations have failed to reveal what caused the loss and none of the missing cash has been recovered.

(The General Accounting Office is authorized) pursuant to 31 U.S.C. § 82a-1 (1976), (to grant relief from liability for a physical loss to an accountable officer upon its concurrence with determinations by the department or agency head that:



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

Your agency made these required determinations.

While there is a presumption that accountable officers have been negligent in the loss of any funds for which they are responsible, it is rebuttable by evidence to the contrary. 54 Comp. Gen. 112, 115 (1974). We have previously granted relief to accountable officers where an investigation has revealed no connection between the accountable officer and the loss. See e.g., B-193830, October 1, 1979; B-189896, November 1, 1977.

Based on the original record submitted, it was not clear whether or not Mrs. Jefferson may have been negligent and we asked Ms. Isler, the Accounting Officer, and Mr. Levins for additional information.

They explained that the imprest fund was secured in a cash box which was kept locked at all times when a theft could have occurred. However, we were told that, in addition to the accountable officer, three people had the combination to the safe and to the drawer in the safe in which the cash box was kept.

On July 18, as discussed above, Mrs. Jefferson placed the cash box in the unlocked second drawer of a four drawer safe in Ms. Isler's office. Despite her failure to lock the drawer until 4:50 p.m., Mrs. Jefferson was present in the office between 3:30 p.m. and 4:50. Furthermore, Mrs. Jefferson's desk was near the safe, and she was sitting in a position that allowed her to observe anyone approaching it.

Mrs. Jefferson's failure to lock the cash drawer during the one hour and twenty minute period on the 18th was not negligent since she remained in the immediate vicinity of the safe at all times. However, it was negligent, on the morning of the 19th, to leave the outer door of the safe unlocked while she was gone from the room.

Despite this negligence, we are constrained to grant relief to Mrs. Jefferson because the Board's lax control of access to the money makes it impossible to say that Mrs. Jefferson's negligence was the proximate cause of the loss.) As noted above, in addition to Mrs. Jefferson, three people had the combinations to the safe and the cash box drawers) When, as here, the agency allows someone other than the accountable officer

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responsible for the fund to have the combination to the container in which the fund is kept, the container is not secure, and we must grant relief. (Since the fund is no longer maintained by the Board, no corrective action is necessary.)

In sum, we concur with the administrative determination that the loss of imprest funds occurred while Mrs. Jefferson was acting in the discharge of her official duties and the loss occurred without fault or negligence on her part. Accordingly, Mrs. Jefferson is granted relief and the loss may be charged to the appropriation currently available for the expense of the disbursing function.

Sincerely yours,

Harry R. Van Cleve

For Milton J. Socolar  
General Counsel