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GAO

United States General Accounting Office  
Washington, DC 20548

Office of  
General Counsel

In Reply  
Refer to: B-195435

SEP 12 1979

The Honorable John E. Reinhardt, Director  
International Communication Agency *DI 000613*  
1750 Pennsylvania Avenue, N.W.  
Washington, D.C. 20547

*Do not make available to public reading*

Dear Mr. Reinhardt:

*[Request for]*

*Personnel  
Name*

This responds to a request from James D. Isbister, Associate Director of Management, International Communication Agency (ICA), for the relief of ~~Mr. Fouad Chammah~~ from liability for the loss of imprest funds in the amount of \$1,283.05. Mr. Chammah is the Class A Cashier at the ICA Regional Service Center in Beirut, Lebanon. For the reasons that follow, relief is granted.

The record indicates that, at about 10:15 p.m. on October 13, 1978, armed soldiers entered the ICA Regional Service Center compound in Beirut and overpowered two guards who were on duty. ICA personnel were advised not to return to the compound until security could be assured. A cursory inspection by American Embassy personnel on October 19 indicated that the safe containing the imprest funds (a Mosler two-drawer safe-cabinet with built-in combination lock) had been looted. ICA employees were not able to regain control of the premises until October 27, at which time they confirmed the theft of the funds from the safe. It appears that the safe had been entered by the use of a blow-corch and various other tools found in the vicinity of the safe. Of the Lebanese Pounds 7,000 which had been advanced to Mr. Chammah, it was determined that Lebanese Pounds 3,785 (U.S. \$1,283.05) had been stolen. The remainder of the funds was accounted for by receipts.

We have authority under 31 U.S.C. § 82a-1 (1976) to grant relief to accountable officers for the physical loss of funds upon our concurrence with the agency head or his delegate:

"(1) that such loss or deficiency occurred while such officer or agent was acting in the discharge of his official duties or that such loss or deficiency occurred by reason of the act or omission of a subordinate of such officer or agent; and (2) that such loss or deficiency occurred without fault or negligence on the part of such officer or agent."



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In the instant case, although ICA did not expressly make the requisite determination that the loss occurred while Mr. Chammah was acting in the discharge of his official duties, the recital of facts clearly suggests that this was the agency's conclusion. The question of relief therefore turns on the presence or absence of negligence.

The presumption that accountable officers have been negligent when a physical loss of funds for which they are responsible occurs can be rebutted by evidence to the contrary. 54 Comp. Gen. 112, 115 (1974). We have previously granted relief to accountable officers where the evidence is clear that a theft took place, where an investigation has revealed no connection between the accountable officer and the theft. See, e.g., B-189795, September 23, 1977 (safe opened with an acetylene torch by burglars at the Fairbanks, Alaska office of the Geological Survey at a time when the office was closed) and B-184274, September 29, 1975 (unknown intruders broke into a cash box in the office safe of the Tulsa, Oklahoma Employment Assistance Office).

Based on an investigation by the State Department Regional Security Officer, ICA determined that the robbery occurred without fault or negligence by Mr. Chammah. The record supports this finding. We therefore concur in the administrative determination that Mr. Chammah should be relieved of liability in this case. The loss may be charged to appropriation 6790201, Salaries and Expenses, International Communication Agency, 1979.

We note that the request for relief in this case does not indicate that authority has been delegated to the Associate Director of Management to make the administrative determinations required by 31 U.S.C. § 82a-1. The statute requires that these determinations be made by the agency head. See title 3, General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies (3 GAO), section 58.2. For purposes of the present case, we have assumed that an appropriate delegation of authority exists. However, similar requests in the future should either be signed by you or, if signed by some other ICA official, should contain evidence of an appropriate delegation. Also, we would point out for your information that requests for relief of accountable officers are now handled exclusively by the Office of General Counsel and there is no need to involve our Financial and General Management Studies Division. See 3 GAO 57.3 and 58.2.

Sincerely yours,

MILTON SOCOLAR

Milton J. Socolar  
General Counsel