

GAO

United States General Accounting Office
Washington, DC 20548

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Rogers

Office of
General Counsel

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In Reply
Refer to: B-190506

James R. Rosa, Esq.
General Counsel
American Federation of Government Employees
1325 Massachusetts Avenue, NW.
Washington, D.C. 20005

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DEC 20 1979

Subject: Ethel M. Fitzgibbons
Your reference: 8c/L-1616

[REQUEST for Relief]

R Dear Mr. Rosa:

This is in response to your request on behalf of Mrs. Ethel M. Fitzgibbons that we review the conclusions in our decision of November 28, 1977, B-190506, that Ms. Fitzgibbons' negligence was the proximate cause of the loss of two \$1000 Treasury bonds and that relief may not be granted to her.

Your chief contention is that when Ms. Fitzgibbons received the bonds (which were collateral for four immigration bonds), "she dutifully placed the bonds in the appropriate storage facility. * * * Ms. Fitzgibbons was not only acting in an official capacity, but she acted in accordance with office procedures." We discussed the office procedures on page 2 of our decision and Ms. Fitzgibbons' behavior in the second and third paragraphs on page 3. As you can see, Ms. Fitzgibbons failed to follow office procedures and, in fact, was never authorized to accept and store the bonds herself in any facility. Rather, upon completion of the proper forms, Ms. Fitzgibbons was to take the collateral to another employee, a Mrs. Cuddy who would then become accountable for any losses. Mrs. Cuddy had a locked cash box to which only she had access. Had Ms. Fitzgibbons not attempted to store the bonds herself contrary to office procedures, it is likely that the loss would not have occurred. In any event, the loss cannot be attributed to the Immigration and Naturalization Service's failure to provide Ms. Fitzgibbons with exclusive use of a safe storage facility since she was not authorized to store them in the first place.

You further state that the Immigration and Naturalization Service has suffered no loss because neither the bonds nor the coupons have been cashed. You note that a stop notice was placed with the Federal Reserve Bank soon after the loss was reported. The missing securities are bearer bonds and, as we understand it, a stop notice does not prevent them from



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being cashed nor does it completely extinguish the Government's liability to pay on them. Therefore, we cannot agree with your conclusion that the Government has suffered no loss.

Accordingly, we must reaffirm our decision to deny relief to Ms. Fitzgibbons.

Sincerely yours,

MILTON SOCOLAR

Milton J. Socolar
General Counsel