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

OFFICE OF GENERAL COUNSEL

B-198124

April 21, 1980

The Honorable Paul S. Tribble, Jr.  
Member of Congress  
Tower Box 59,  
2101 Executive Drive  
Hampton, Virginia 23666

Dear Mr. Tribble:

[Request

This is in response to your request that we consider the claim of Mrs. Brenda J. Faulkner, an accountable officer of the United States Coast Guard, for relief from liability for a \$1,440.60 loss of funds. The loss occurred at the United States Coast Guard Reserve Training Center, Yorktown, Virginia, in October, 1975.

In her letter to you, which you enclosed, Mrs. Faulkner did not provide any details concerning the loss. We have been informally advised by her agency, however, that the Office of the Chief Counsel of the Coast Guard determined that Mrs. Faulkner's negligence contributed to the loss. Based upon this finding, the agency ordered her to repay the loss pursuant to 5 U.S.C. § 5514 (1976). Accordingly, it has been withholding \$19 per month from her salary.

Relief of an accountable officer from liability for a physical loss of funds may be granted by the General Accounting Office only in accordance with 31 U.S.C. § 82a-1 (1976) which requires, as a condition precedent to granting relief, a determination by the head of the department concerned--

" \* \* \* (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. \* \* \* " (Emphasis added.)

The Coast Guard has not made the requisite determination. We are not authorized to grant relief under these circumstances, regardless of the merits of the case. However, if you believe that the Coast Guard's

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determination warrants reconsideration, we suggest you contact: Office of the Chief Counsel c/o Commandant, United States Coast Guard, 2100 2nd Street, S.W., Washington, D.C., 20593. We might point out that in her letter to you, Mrs. Faulkner apparently admits that her negligence contributed at least to the size of the loss. It is doubtful, even if the Coast Guard changed its position and recommended the granting of relief, that we could concur under these circumstances.

Regarding Mrs. Faulkner's reference to Pub. L. No. 92-310 (codified in pertinent part at 31 U.S.C. §§ 1201-1204 (1976)), we have previously held that the elimination of fidelity or surety bonding in section 101(a) of this statute did not diminish the basic liability of accountable officers. 54 Comp. Gen. 112 (1974). These bonds were never insurance policies for the protection of accountable officers. They were intended solely for the protection of the United States. Under the former system, when the United States was compensated for a loss by the bonding company, that company succeeded to the rights of the United States and, hence, could, and usually did, seek reimbursement from the bonded accountable officer. Thus, the elimination of surety bonds did not affect the liability of accountable officers who remain insurers of public funds.

We are sorry we could not be of assistance to your constituent. As you requested, we are returning Mrs. Faulkner's letter to you.

Sincerely yours,

~~Harry R. Van Cleave~~  
**For** Milton J. Socolar  
General Counsel

Enclosure