



Office of the General Counsel

B-255042.2

July 17, 1995

Mr. George Strader
Deputy Assistant Secretary for Finance
Department of Health and Human Services

Dear Mr. Strader:

This responds to your request, dated December 15, 1994, that we relieve Mr. Frank Claunts, Financial Management Officer, Division of Financial Management (DFM), Food and Drug Administration (FDA), Department of Health and Human Services (HHS), from liability for \$25,559 in fraudulent payments disbursed by the Parklawn Headquarters Imprest Fund (HQIF). For reasons stated below, relief is granted.

From September 18, 1991 to January 22, 1992, on 33 separate occasions, Ms. Vicky Renee Jeter, a former FDA employee, submitted a total of 65 falsified Travel Vouchers and Advance of Funds Applications to the Parklawn HQIF and fraudulently obtained \$25,559 in advance payments. On January 21, 1992, FDA discovered the fraudulent travel payments during a routine mailing to collect overdue advances from FDA travelers with outstanding balances. Ms. Jeter was arrested on January 27, 1992, while attempting to fraudulently obtain another advance of travel funds. She was sentenced on July 1, 1992, to 17 months in jail and 3 years of supervised probation. No restitution was ordered during her sentencing and the FDA has no prospects of recouping the funds from her.

In October, 1994, we granted relief to the three cashiers involved in this case. B-255042, Oct. 28, 1994. However, we suspended the running of the statute of limitations, pursuant to 31 U.S.C. § 3526(g), with regard to Mr. Claunts, the supervisory disbursing official in those name the Parklawn HQIF was held. Under 31 U.S.C. § 3527(c), we may relieve a disbursing officer from liability for a deficiency resulting from an improper payment if we determine that the payment was not the result of bad faith or lack of reasonable care by the disbursing official. 62 Comp. Gen. 476, 478 (1983); B-248517, Oct. 29, 1992. The good faith and reasonable care of a supervisory disbursing official is shown by evidence that the supervisor maintained adequate procedures and controls to avoid errors and safeguard the funds, and took steps to ensure the system's implementation and

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effectiveness. B-232575, Nov. 8, 1990. The record then before us did not include all information relevant to Mr. Claunts' liability or eligibility for relief, particularly with regard to the issues raised in the HHS Office of the Inspector General (IG) report on the loss. The IG determined that Mr. Claunts maintained procedures and controls which did not require photo identification of payees contrary to Department of the Treasury and HHS regulations. The IG report also stated that regardless, the procedures and controls that were in place, particularly the routine audit of outstanding advances, could still have detected the fraud earlier if they were effectively implemented.

We reviewed the documents you submitted on December 15. The documents establish that Mr. Claunts implemented and maintained an adequate system of controls over HQIF payment procedures and that the improper payments were not the result of bad faith or lack of due care. FDA procedures were not deficient in not requiring photo identification of payees. Neither Treasury nor HHS Voucher Examination Manual (VEM) procedures included such a requirement. Treasury procedures required cashiers to "obtain ID from traveler." Department of the Treasury, Financial Management Service "Manual of Procedures and Instructions for Cashiers," p. 24 (July, 1985). HHS VEM procedures required cashiers to request "proper identification" of payees. HHS VEM, par. 1-10-50C.11 (Feb. 1, 1985). While FDA procedures in effect at the time of the fraudulent payments did not specifically require identification of payees, Mr. Claunts had included in the guidance he provided to cashiers copies of the HHS VEM provision which required "proper identification" of payees requesting travel advances.

The requirement of identification would not necessarily have prevented these fraudulent payments. Ms. Jeter, while an employee, had established herself with the cashiers as a person who collects travel advances on behalf of others. Ms. Jeter's duties included making travel arrangements for supervisory personnel, i.e., preparing travel orders and vouchers and collecting travel advances. FDA states that the cashiers had required Ms. Jeter to provide identification during a previous legitimate transaction. As a result of their recognition of her, they did not require that she present identification each time she appeared at the window.

The DFM had a system of controls in place which could effectively detect fraudulent payments. In accordance with HHS VEM procedures, FDA required a post-disbursement review of vouchers. The DFM standard practice is to conduct a follow-up review of 30-day old outstanding travel advances. However, between May, 1991 and January, 1992, because of the loss of the chief of the travel audit section and substantial attrition and turnover of that section's staff, DFM, on an interim basis, limited the follow-up reviews to overdue travel advances outstanding for 90 days or more. In January, 1992, when DFM resumed its standard practice of reviewing travel advances that were 30 days or more overdue, the fraudulent payments were discovered. This provides an indication that the DFM system of

controls could detect fraudulent payments, and had the system not been hampered by personnel problems, the fraud probably would have been discovered earlier.

In this case, the improper payments were largely the result of criminal activity that even a carefully established and effectively supervised system cannot reasonably prevent. See B-229274, Jan. 15, 1988. Since there is no indication that the improper payments were the proximate result of bad faith or lack of reasonable care on the part of Mr. Claunts, we grant the requested relief.

Sincerely yours,

Gary L. Keplinger
Associate General Counsel