



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-274364

B-276306

April 23, 1997

Mr. David L. Gagermeier
Assistant General Counsel
Defense Finance and Accounting Service
Indianapolis Center
Indianapolis, IN 46249

Dear Mr. Gagermeier:

This responds to your letters of January 22, 1997 and August 19, 1996, requesting relief of Lieutenant Colonel (LTC) H.G. Thigpen, Defense Accounting Officer, Fort Stewart, Georgia, from personal liability for improper payments in the amount of \$6,944.33 and Lieutenant Colonel (LTC) M.C. Mattingly, Fort Jackson, South Carolina, from personal liability for improper payments in the amount of \$6,754. For the reasons stated below, we grant both of your requests for relief. In addition, we also relieve LTCs Thigpen's and Mattingly's subordinates who made the improper payments in question.

BACKGROUND

Your submissions indicate that the improper payments resulted from a wide-ranging fraud scheme perpetrated by Sergeant First Class Robert J. Lamb. Mr. Lamb received about \$70,000 through 25 false claims to Army, Air Force and Navy accounting and travel offices for Do-It-Yourself (DITY) moves of personal property that he never in fact made. The DITY program is a military program designed to save the government money and provide a quick, informal way to facilitate inexpensive moves of military personnel on short notice. Under the DITY program, a member can present a voucher for advance payment of the anticipated costs of moving to another post pursuant to military travel orders. The member need not go to his or her own command or even his or her own branch of the military to obtain such payments. Instead, through a procedure known as "cross disbursing," any

command may make DITY advance payments to members based solely on the presentation of appropriate paperwork and military identification (ID). The member's service and/or command is then billed for reimbursement after the fact.

Mr. Lamb, while absent without leave from the Florida National Guard, altered his original travel orders requiring him to report to active duty for training at Redstone Arsenal, Alabama, to show travel from Florida to Fort Bliss, Texas. He submitted fraudulent documentation directly to various base accounting and travel offices to receive these payments. The U.S. Property and Fiscal Officer (USPFO), Florida, became aware of Mr. Lamb's fraudulent DITY claims when a clerk received billings for reimbursement from two different posts on the same day. The USPFO contacted the U.S. Army Criminal Investigation Division Command (CID) about the fraudulent claims. An investigation by CID eventually led to Mr. Lamb's apprehension, arrest, and prosecution.

Lieutenant Colonel Thigpen

On August 24, 1994, Mr. Lamb submitted his first DITY claim at a branch office of the Fort Stewart, Georgia, finance office. Mr. Lamb submitted his altered travel orders as well as a forged DD Form 2278 (Application for Do-It-Yourself Move and Counseling Checklist). Since the documents were filled out correctly and he had a valid military identification card, the clerk¹ prepared a travel voucher for Mr. Lamb's signature. The voucher was loaded into the disbursing system and Mr. Lamb received a Treasury check for \$3,630.60. He signed the check register acknowledging receipt of the check.

On August 26, 1994, Mr. Lamb submitted his second fraudulent DITY claim at Fort Stewart, this time at the main finance office. He used the same fraudulent orders and submitted another forged DD Form 2278. Since the documents were filled out correctly and he had a valid military identification card, the clerk¹ prepared a travel voucher for Mr. Lamb's signature. The voucher was loaded into the disbursing system and he received a Treasury check for \$3,613.73. He signed the check register acknowledging receipt of the check.

Lieutenant Colonel M.C. Mattingly

On August 30, 1994, Mr. Lamb presented his altered travel orders to the transportation office at Fort Jackson, South Carolina. Since the documents appeared to be in order and filled out correctly the transportation office prepared and certified a DD Form 2278. Mr. Lamb then took this documentation to the travel

¹Although the record is unclear, the travel clerks issuing the payments were apparently Michael Davidson and Travis Proctor.

branch at the finance office at Fort Jackson. Since the documents were filled out correctly and he had a valid military identification card, the clerk, Ms. Linda Garland, prepared a travel voucher for Mr. Lamb's signature. The lead clerk in the branch audited and certified the travel voucher and loaded it into the disbursing system. Mr. Lamb received a Treasury check for \$3,140. He signed the check register acknowledging receipt of the check.

Mr. Lamb waited until October 5, 1994 to submit his second fraudulent DITY claim at the same Fort Jackson travel branch finance office. This time he did not go to the transportation office but used the same fraudulent orders and DD Form 2278 he used in the August 30, 1994 fraudulent claim. The clerk, Ms. Linda Garland, did not recognize Mr. Lamb from his previous visit. Since the documents were filled out correctly and he had a valid military identification card, she processed the travel voucher for Mr. Lamb's signature but discovered that he had already received a DITY payment using the same travel orders. She informed Mr. Lamb of this and he advised that he returned the advance to the USPFO in Florida because his wife was ill and they had never made the move. Ms. Garland sought clearance from the lead travel technician who advised her to call USPFO in Florida to receive approval for the second payment. Ms. Garland called the USPFO in Florida and obtained the necessary approval for the second payment, although she does not recall who she talked to. The voucher was audited, certified and loaded into the disbursing system and Mr. Lamb received a Treasury check for \$3,614. He signed the check register acknowledging receipt of the check.

DISCUSSION

As the finance and accounting officer officially responsible for the account, LTCs Thigpen and Mattingly are personally liable for deficiencies in their accounts caused by any improper payments made by their subordinates. This Office has authority under 31 U.S.C. § 3527(c) to relieve a disbursing officer from liability when the record indicates that the disbursing officer acted within the bounds of due care; that there is no evidence of bad faith on the part of the disbursing officer; and that a diligent effort was made to collect the improper payments. In cases where subordinates of the official actually disbursed the funds, we have granted relief upon a showing that the finance officer properly supervised his subordinates by maintaining an adequate system of procedures and controls to safeguard the funds and took steps to ensure the implementation and effectiveness of the system. B-270480, Jan. 18, 1996; 62 Comp. Gen. 476 (1983).

As accountable officers, the disbursing clerks at Fort Stewart and Fort Jackson are strictly liable for the deficiency in their accounts resulting from the improper payments. 62 Comp. Gen. 476, 479-80 (1983). Under 31 U.S.C. § 3527(c), we may relieve a disbursing official 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, and that diligent collection efforts were made. B-239122, Feb. 21, 1991.

Your letter and supporting documents establish that LTCs Thigpen and Mattingly had in place and maintained an adequate system to safeguard the funds for which they were responsible. Furthermore, the travel clerks followed these procedures, including ensuring that the payee was properly identified by a picture ID. There is no evidence that the payments were the result of bad faith or lack of reasonable care. Even an adequate and effectively supervised system of procedures and controls cannot always prevent improper payments resulting from criminal activity. B-270480, Jan. 18, 1996.

Collection Action

As indicated above, 31 U.S.C. § 3527(c) permits us to deny relief in cases in which the agency has not taken diligent collection action. Here the record indicates that when LTC Thigpen and LTC Mattingly both learned of the frauds perpetrated by Mr. Lamb, they immediately began collection action. Initial collection action was unsuccessful because he was Absent Without Leave from the National Guard and did not have any pay due him. After Mr. Lamb was given a dishonorable discharge from the National Guard on May 5, 1995 the loss was referred to the Directorate for Debt and Claims Management. The Directorate is currently pursuing collection action against Mr. Lamb in accordance with the Federal Claims Collection Standards, 4 C.F.R. Parts 101-105 (1995).

DITY Program Vulnerability

Finally, we note, as did the record compiled in the CID's investigation, that because the DITY program is aimed at quickly paying service members to move themselves and provide the government with savings, it is susceptible to this type of fraud. For that reason, the CID reports contain a number of suggestions intended to reduce the vulnerability of the DITY program to fraudulent manipulation of the type perpetrated by Mr. Lamb without significantly impairing its utility to the Defense Department. The record reflects that both LTCs Thigpen and Mattingly have

initiated new policies to prevent soldiers not from the local area from receiving DITY advances. We trust that the Department of Defense will consider these and other appropriate measures in order to reduce the possibility for similar losses in the DITY program.

Accordingly, we grant relief to both LTC Thigpen, LTC Mattingly and their subordinates.

Sincerely,

Gary L. Kepplinger
Associate General Counsel