

12160

QAM

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-195227

DATE: November 29, 1979

MATTER OF: Finality of Immigration and Naturalization Service's ⁸⁶
decision on responsibility of accountable officer for
physical losses of funds.

DIGEST: Delegation of authority to agencies to resolve administrative
irregularities up to \$500 is relevant only when agency
believes accountable officer should be relieved of respon-
sibility. Since GAO's role is limited to concurring or
refusing to concur with agency head's findings that statutory
requisites for relief have been met, GAO may not grant
relief, when no such findings have been made, regardless
of the amount involved.

R.
/ The Acting Associate Commissioner of Management for the Immigration
and Naturalization Service requests our decision concerning the finality ⁸⁶
of an agency's decision on the responsibility for an irregularity in
accounts up to \$500.

The Immigration and Naturalization Service determined that Mr. David L.
Milne, an accountable officer, was liable for a physical shortage of funds,
and withheld \$90 from his paycheck to make up the loss. Claiming that
the agency had disregarded its own regulations in holding him accountable,
Mr. Milne then appealed to the General Accounting Office for a refund of
the \$90. Mr. Milne specifically stated he was not applying for relief
under 31 U.S.C. § 82a-1. In denying Mr. Milne's refund request, our
Claims Division stated:

"We have no authority to reverse the determination made
by the Immigration and Naturalization Service that you
were one of the 'accountable officers,' in view of the
fact that we have delegated to all federal agencies the
authority to administratively resolve irregularities in
accounts of up to \$500. See 54 Comp. Gen. 112 (1974)."

After our denial of his refund request, Mr. Milne submitted a
grievance to the Immigration and Naturalization Service. The Service
refused to consider the grievance because its grievance procedures
cover only matters which are not subject to final administrative review
outside the agency. The Service maintains that final responsibility
for administrative review of account irregularities up to \$500 remains
with the General Accounting Office.

~~007927~~

110963

The Service now asks whether the delegation of authority to Federal agencies to resolve irregularities up to \$500 divests the General Accounting Office of responsibility for final review of the administrative resolution. If this answer is in the affirmative, the Service also wishes to know if the \$500 limit applies to irregularities occurring before August 14, 1974, when the limit was raised from \$150 to \$500.

GAO has authorized the heads of departments and agencies to grant relief to accountable officers for physical losses of funds if the amount involved is less than \$500. 3 GAO 57.3, 58. (This authority does not cover losses due to fraud or to improper payments by the accountable officer. See 7 GAO 28.14(3).) This authorization simply means that if the agency has made the requisite statutory determinations under 31 U.S.C. § 82a-1--i.e., that the loss or deficiency occurred while an accountable officer (or his subordinate) was acting in the discharge of his official duties, and that the loss or deficiency occurred without fault or negligence on the part of the accountable officer (or his subordinate)--the agency need not submit the matter to the GAO to obtain our concurrence with its findings and the agency may grant relief and adjust the account.

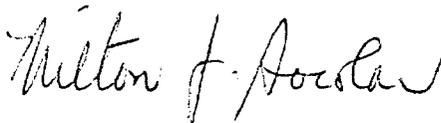
If the agency has not made these determinations, neither the agency nor the GAO has any authority to grant relief to the accountable officer, regardless of the amount involved. When relief is not granted to an accountable officer, the agency has no alternative but to proceed immediately to collect the amount of the shortage from the officer, unless restitution is otherwise made.

Since GAO's sole authority, with respect to relief of accountable officers of other agencies, is limited to giving or withholding concurrence with the agency's determinations it has no role to play when the agency has either not made the requisite statutory determinations or has made a determination adverse to the officer. Such agency action is final, as far as the GAO is concerned, and it cannot overrule any aspect of the agency's findings leading to the conclusion that it will not grant (where the loss is less than \$500) or request GAO to grant, relief to a particular accountable officer.

In summary, the finality of an agency's decision either not to grant relief (where appropriate) or not to request GAO to grant relief for a physical loss of funds does not depend on the presence or absence of an authorization from the GAO to resolve administrative irregularities up to a stated sum. GAO's statutory authority is limited to granting

relief when it concurs with an agency's findings that relief should be granted. If no such findings are made by the agency, there is nothing for GAO to review. It is therefore unnecessary to address the Service's second question about the applicability of the authorization from the GAO to irregularities occurring before August 14, 1974.

As to the question of Mr. Milne being an accountable officer, we have held that any Government officer or employee, civilian or military, who by reason of his employment is responsible for or has custody of Government funds is an accountable officer. Thus an officer or employee who receives or collects money for the Government is accountable to the Government for all money collected. It is clear from the record that Mr. Milne accepted the funds in question by reason of his employment and thus is an "accountable officer" insofar as those funds are concerned.



For the Comptroller General
of the United States