

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

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FILE: B-201557

DATE: September 28, 1981

MATTER OF: Crocker National Bank

DIGEST: Bank's compliance with collection procedures set forth at 31 C.F.R. § 210.10 by remitting to Government full amount of credit payment issued after beneficiary's entitlement has ceased due to death fulfilled its responsibilities under 31 C.F.R. Part 210. Bank is no longer accountable for amount of payment where Government erroneously returned payment to bank and beneficiary's account was closed before error was detected.

The legal counsel of the Bureau of Government Financial Operations, Fiscal Service, Department of the Treasury, has requested a decision on whether Treasury may return to the Crocker National Bank, San Rafael, California, \$212.60, a sum which was charged to Crocker's Federal Reserve account pursuant to Treasury regulations set forth at 31 C.F.R. Part 210. Treasury expresses the opinion that although it has a legal right to retain the funds, equitable considerations dictate that the \$212.60 be returned to the bank. We disagree with Treasury's contention that it has a legal right to retain the funds and thus do not reach the equitable question. The remittance by Crocker of the sum of \$212.60 on May 23, 1979, in strict compliance with the collection procedures set forth at 31 C.F.R. § 210.10, discharged the bank of its responsibility to the Government. When Treasury, by virtue of its own error, returned the funds to Crocker, Crocker was justified in crediting them to a deceased beneficiary's account and permitting the account to be closed. Treasury was not legally entitled to debit Crocker's Federal Reserve account for the sum in question, and the funds should accordingly be recredited to its account.

The facts from which the claim arose, as summarized by the Department of the Treasury, are as follows:

"Crocker had entered a three party agreement with its depositor, Helen Persson (the payee), and the Department of Treasury. By the terms of this agreement, Ms. Persson authorized the direct deposit by Treasury of her recurring monthly federal benefit payments to her Crocker account. These payments were made by electronic fund transfer and are sometimes referred to as 'credit payments.' The rights and duties of the parties to such an agreement are governed by Treasury regulations appearing at 31 C.F.R. Part 210.

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"The depositor died on March 31, 1979, and consequently, was not entitled to the \$212.60 monthly benefit payment that was issued to her and deposited into her Crocker account on April 3, 1979. Pursuant to 31 C.F.R. 210.9, Crocker is accountable to Treasury for amounts paid by Treasury after the death of a beneficiary, the rights to which cease at death. However, if the criteria of 210.9(a)(1)-(3) are met, as was apparently the case here, the bank's liability for the return of these amounts is limited under 31 C.F.R. 210.9(a)(i) and (ii) as follows:

"(i) The amount available in the recipient's account and the amount recovered by it, plus

"(ii) The amount not recovered by it, or an amount equal to the credit payments received by it within 45 days after the death or legal incapacity of the recipient or the death of the beneficiary, whichever is the lesser amount.

"On May 3, 1979, Treasury issued a Notice of Accountability to Crocker informing Crocker of the depositor's date of death and its liability for the April payment amount. * * * On May 23, 1979, in response to this Notice of Accountability, Crocker remitted \$212.60 by check to the Department of Treasury. * * * Crocker apparently charged the account of the depositor, which was still open at the time, for this amount.

"On June 7, 1979, the Manager, Claims Branch, Philadelphia Regional Disbursing Office, Bureau of Government Financial Operations, returned the above check with a memorandum stating that the payee was entitled to the April payment 'due to the date of death.' In other words, the employee indicated that the correct date of death, transmitted in the Notice of Accountability, was wrong. * * *

"Subsequently, the error was detected and on July 26, 1979, the Manager of the Claims Branch wrote to Crocker asking that it reissue the check since the payee was not entitled to payment. It was again indicated that the date of death was March 31, 1979. * * * By letter dated August 15, 1979, Crocker protested this request. It indicated that the depositor's account

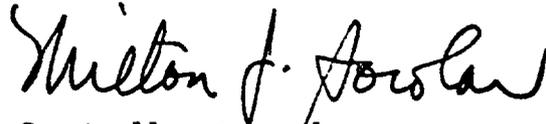
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had been closed on July 3, 1979, and that because of Treasury's error, it could no longer charge the account in the amount to which it was liable to Treasury. * * *

"On September 7, 1979, Treasury again notified Crocker of the request of refund and concurrently debited the account of Crocker at the Federal Reserve Bank for the amount in question. Under the circumstances, this method of collection was authorized by 31 C.F.R. 210.10(e). * * * Crocker protested this debit by letter dated February 15, 1980, and on subsequent occasions in telephone conversations* * *."

It is not clear to us, based on the facts presented in the submission, that Treasury is correct in its assertion that it had the authority to debit Crocker's Federal Reserve account for the amount of the payment. It is true that under 31 C.F.R. § 210.9, Crocker was accountable for the entire sum of \$212.60 at the point at which it received the May 3, 1979, Notice of Accountability. (It is irrelevant that Crocker may have met the criteria for limited liability set forth in § 210.9(a)(1)-(3), as Treasury indicates was apparently the case, since the bank's liability under 31 C.F.R. § 210.9(a)(i) and (ii) would still be \$212.60.) However, Crocker complied fully with the collection procedures set forth at 31 C.F.R. § 210.10 when it was informed of such liability. It is our view that the bank thereby discharged the responsibilities imposed upon it by Federal regulation. The return of the money to the bank imposed no further duty upon it, and the bank was justified in crediting the sum to Ms. Persson's account and allowing the account to be closed prior to receipt of notice of the Government's error.

Since Treasury did not have the right to debit Crocker National Bank's Federal Reserve account for the sum of \$212.60, that amount should be recredited to the bank's account.



Acting Comptroller General
of the United States