



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

Office of the General Counsel

B-258735

December 15, 1994

Mr. John S. Nabil
Director
Defense Finance and Accounting Service

Dear Mr. Nabil:

This responds to your letter of September 26, 1994, concerning the request of _____ Accounting and Finance Officer at Pope Air Force Base, North Carolina, for relief from pecuniary liability pursuant to 31 U.S.C. § 3527(c). An improper payment totalling \$670 was made from his account. We find that _____ account with respect to this payment has been settled by operation of law. 31 U.S.C. § 3526(c). For this reason, collection may not be pursued against him on account of this erroneous payment and relief, pursuant to section 3528(b), need not be considered.

According to the record, the improper payment was made to the husband of Sgt. _____ who, at the time of the payment, was deployed to Saudi Arabia in support of Desert Storm. The improper payment resulted when _____ claiming that his wife had left him without adequate funds for their children, produced a general power of attorney and requested an advance housing allowance. On September 10, 1991, the acting commander, Lt. Col. _____ approved the request based on this general power of attorney, although the Air Force Manual 177-373, paragraph 3-2d, provides that a general power of attorney is not sufficient for claims for pay and allowances. The acting financial officer, Mr. _____, certified the payment voucher, which did not have the power of attorney attached nor did it have Sgt. _____ signature on the form. On September 13, Sgt. _____, cashier, released a check, prepared in the name of _____, to Mr. _____, who negotiated the check using his general power of attorney. The Air Force Manual provides that if a member cannot pick up a check, he or she may designate another person to do so "by valid special (not general) power of attorney" which must be attached to the voucher.

Sgt. _____ was not aware of the advance until it was posted to her pay account. She declined to ratify the advance and the debt was deleted from her account on November 30, 1991. Subsequent efforts to collect the debt from Mr. _____, as well as Ms. _____, who is no longer with the Air Force, have been unsuccessful. Section 3527(c) authorizes this Office to relieve disbursing officers from pecuniary

liability where certain criteria are satisfied. At the same time, however, we are required to settle and adjust all accounts within three years after the date that we "receive" them. 31 U.S.C. § 3526(c). Section 3526(c) deems an account legally settled and conclusive upon us if we have not settled the account within that period. As you know, agency accounts are no longer routinely transferred to this Office. Instead, each agency retains the records pertaining to its own accounts and audits of them. GAO, Policy and Procedures Manual for Guidance of Federal Agencies (GAO-PPM), tit. 7, §§ 8.4, 8.5 (TS No. 7-43, May 18, 1993).

In view of this, we consider the 3-year statute of limitation prescribed in section 3526(c) to begin to run on the date that an account is substantially complete and ready for audit. B-254218, May 26, 1994. See also 7 GAO-PPM § 8.7. Generally, this occurs on the latter of the date when (1) the accountable officer certifies a periodic statement of liability or (2) the agency has in its possession all of the information and documents necessary to raise a charge against the account. 70 Comp. Gen. 420 (1991). In order to preserve and protect the government's rights with respect to the 3-year period specified in section 3526(c), agencies are required, with certain exceptions not relevant here, to report all unresolved irregularities to this Office within two years after the date that the relevant account is substantially complete and ready for audit. 7 GAO-PPM § 8.4C.

The Air Force had in its possession all of the information necessary to raise a charge against Lt. _____ account by mid-October 1991, at the latest. By that time, Sgt. _____ had informed the Air Force that she would not authorize payment. Further, on October 25, 1991, the Air Force Judge Advocate's Office, in response to a request from the Accounting and Finance Branch, confirmed that an erroneous payment had been made. Consequently, in October of 1991, Lt. _____ had in his possession the certified voucher and supporting papers that would enable an auditor to determine whether the payment was improper. See B-251994, Sept. 24, 1993. There is no indication in the record that the Air Force made any attempt to notify this Office of the irregularity prior to your submission of the matter to us, dated September 26, 1994. Because the 3-year statute of limitation in section 3526 began to run at the end of the accounting period for October 1991, Lt. _____ account has already been settled in his favor, by operation of law. Accordingly, Lt. _____ has no pecuniary liability for this loss and there is no occasion for us to consider his request for relief pursuant to 31 U.S.C. § 3528(b).¹

While you requested relief only for Lt. _____, we note that the 3-year limitation in section 3526 generally applies to all accountable officers. 70 Comp. Gen. 616 (1991). See also 7 GAO-PPM, §§ 8.1, 8.5 - 8.7. However, because you specifically

¹In order to avoid this situation in the future, please submit relief requests in a timely manner.

determined not to seek relief for Mr. _____ and Sgt. _____ prior to the expiration of the 3-year period, you should continue to pursue collection action against them. See 70 Comp. Gen. 616, 622 (1991).

Sincerely yours,



Gary L. Keplinger
Associate General Counsel

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DIGEST

Air Force Accounting and Finance Officer's account is settled by operation of law upon running of the three-year statute of limitations in 31 U.S.C. § 3526. Air Force did not timely submit the irregularity and the request for relief to GAO. However, because Air Force determined, prior to the expiration of the three-year period, not to seek relief for an acting financial officer and cashier who were involved in the irregularity, Air Force should continue to pursue collection action against them.