



United States  
General Accounting Office  
Washington, D.C. 20545

Transmittal No. 05

Office of the General Counsel

B-257120

December 13, 1994

Louise F. Stoll  
Assistant Secretary for Budget and Programs  
U.S. Department of Transportation

Dear Ms. Stoll:

This is in reply to your request, under 31 U.S.C. § 3527, that we relieve Ms. \_\_\_\_\_ an imprest fund cashier for the Federal Aviation Administration's (FAA) Jacksonville, Florida Airway Facilities Sector Field Office, of liability for the loss by theft of \$3,978.69 from the FAA's imprest fund. For the reasons stated below, we deny relief.

On March 17, 1992, Ms. \_\_\_\_\_ went to a local bank to cash imprest fund replenishment checks in the amount of \$3,978.69. She was accompanied by a supervisor from another unit and an electronics technician who drove his personal truck. Ms. \_\_\_\_\_ usual procedure was to cash the checks on her lunch break accompanied, as she had been instructed, by at least one other employee, usually the same supervisor who accompanied her that day, and frequently by the electronics technician as well.

After eating lunch, the group went to the bank. The driver stayed in his truck while Ms. \_\_\_\_\_ and the supervisor cashed the checks. Ms. \_\_\_\_\_ placed the money she received in her money pouch. After returning to the truck, they drove to a grocery store about a block away from the bank to purchase sodas for the office soda fund. (The sofa fund is administered by Ms. \_\_\_\_\_ and the supervisor.) En route, Ms. \_\_\_\_\_ handed the pouch to the supervisor who placed it under the seat. The driver dropped them off at the front of the store, parked, locked the truck and came into the store. Ms. \_\_\_\_\_ stated that she believed the driver would stay in the truck as he had at the bank.

Upon returning to the truck after purchasing the sodas, they discovered the window broken and the money pouch missing. The incident was immediately reported to the police. According to the statements taken by the police from the store personnel, incidents like this had occurred in the store's parking lot in the past.

Under 31 U.S.C. § 3527, this Office may relieve an accountable officer of liability for a physical loss of government funds if we agree with the determination by the head

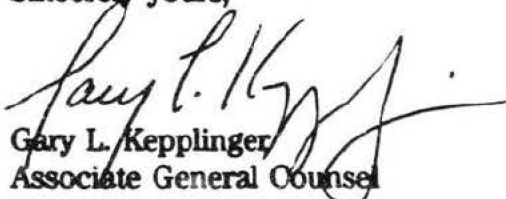
of the agency that the loss occurred while the officer was acting in his or her official capacity and was not the result of fault or negligence on the part of the officer. When a loss of funds occurs, the accountable officer is presumed negligent and, to obtain relief, must rebut this presumption with convincing evidence that the loss was not caused by the accountable officer's negligence or lack of reasonable care. 70 Comp. Gen. 12, 14 (1990). Your office has concluded that Ms. [redacted] was acting in her official capacity when the loss of funds occurred, and that she took sufficient care to protect the funds.

Based on the record before us, we are unable to agree with your conclusion that Ms. [redacted] exercised due care. While the record confirms that a theft occurred, we believe the record shows that Ms. [redacted] was negligent, and that this negligence enabled the theft to occur, and was, thus, the proximate cause of the loss. See B-233937, May 8, 1989. Accountable officers are held to a standard of reasonable care. 54 Comp. Gen. 112, 116 (1974); B-209569, April 13, 1983. Placing \$3,978.69 in cash under the front seat of an automobile cannot be characterized as an action that a reasonably prudent and careful person would have taken to safeguard the funds.

We note your concern that lack of adequate training contributed to the loss; we cannot grant relief on the basis of inexperience or inadequate training or supervision. 70 Comp. Gen. 389, 390 (1991). This Office is not authorized to grant relief except in circumstances which conform strictly to the provisions of the statute. *Id.*

Based on the record, we find that Ms. [redacted] was negligent. Further, the evidence before us leads to the conclusion that her negligence resulted in the physical loss of \$3,978.69. Accordingly, relief is denied.

Sincerely yours,

  
Gary L. Kepplinger  
Associate General Counsel