



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

Office of the General Counsel

B-239592.2

September 1, 1992

Mr. Thomas N. Willess  
General Counsel  
Defense Investigative Service  
1990 Half Street, S.W.  
Washington, D.C. 20324-1700

Dear Mr. Willess:

This responds to a request from [redacted] for reconsideration of our decision, B-239592, Aug. 23, 1991. In that decision, we found Mr. [redacted] liable, as certifying officer, for a \$16,723.19 improper payment of employee relocation expenses pursuant to a personnel settlement agreement. Upon reconsideration, we conclude that Mr. [redacted] did not certify the payment as an authorized certifying officer, and consequently, is not liable as a certifying officer for the payment.

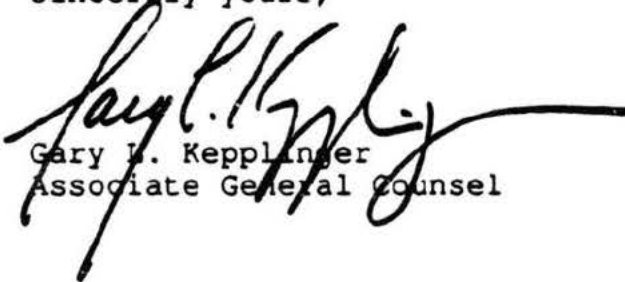
As you may recall, the improper payment resulted from a settlement agreement that the Defense Investigative Service (DIS) negotiated with one of its special agents. DIS after an administrative inquiry that documented misconduct of this agent, proposed that the agent be reduced in grade and reassigned to another DIS office. The agent negotiated a settlement under which the agent agreed to resign from DIS and DIS agreed, among other things, to pay the agent's moving and relocation expenses. DIS also agreed to relieve the agent from the statutory requirement that he continue employment with the agency for 12 months after the move. 5 U.S.C. § 5724(i).

In our 1991 decision, we found that the payment to the agent was improper and constituted a debt owed to the United States. We further found the agent liable for repayment of the debt together with \$5,996.24 in other overpayments. DIS informed us that it did not wish to seek recovery from the agent because it believed there was a substantial likelihood of litigation. DIS also informed us that it believed that the Assistant Director of Resource Management, Mr. [redacted], was liable as a certifying officer for the improper payments. Mr. [redacted] signed, as "approving official," the form authorizing payment of relocation expenses.

In his request for reconsideration, Mr.                    asserts that he is not a certifying officer within the meaning of 31 U.S.C § 3528 because, although he signed the DIS authorization form as approving official, he was not responsible for determining the propriety of the payment. DIS has not provided us with any facts which contradict this contention or support its assertion that Mr.                    was the certifying officer. Moreover, the DIS Manual for Administrative Orders (Jan. 1989) does not include ensuring compliance with applicable laws and regulations in its list of an approving official's duties. Because of the absence of documentation showing that Mr.                    was a designated certifying officer of the agency, we reverse our determination holding him liable for the relocation expenses. DIS is responsible for identifying the officer liable for the improper payment and requesting relief from this office if appropriate.

This determination does not affect the liability of the agent who received the improper payments. The agent remains liable for the \$22,719.43 he erroneously received.

Sincerely yours,



Gary L. Kepplinger  
Associate General Counsel

Timmerman

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**DIGEST**

Upon reconsideration, prior decision holding individual who signed as approving official liable for the payment of relocation fees in violation of 5 U.S.C. § 5724, is reversed based on new information regarding the duties and responsibilities of the official. Former employees who received the relocation fees is still liable for the improper payment.