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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON 25, D. C.

B144148-UM

Nov 1, 1960

CIVIL ACCOUNTING AND
AUDITING DIVISION

SEP 2 1960

The Comptroller General

Reference is made to the enclosed letter dated March 17, 1960, from the Assistant Deputy Director, Controller, International Co-operation Administration requesting relief under the act of August 9, 1955 (31 U.S.C. 82a-1) for Charles D. Wright, Agent Cashier, United States Overseas Mission, Kandahar, Afghanistan in the amount of \$123.88 (5327 Afghanis) resulting from a physical loss of the funds. The request for relief was submitted pursuant to the provisions of 3 GAO 4570.15.

Based upon our review of the case, we recommend that relief be denied for the following reasons:

- (1) Funds were advanced by the Alternate Agent Cashier to Mohd. Halim Saliai who was not an employee of the ICA mission. Mohd. Saliai was an employee of Herman Kise, an individual who had a contract (ICA-AF-75, dated November 1, 1959) to perform various administrative services for the ICA mission.
- (2) Article 11 of the contract with Herman Kise states that "The contractor accepts complete responsibility for injuries sustained by his employees in the discharge of their work under this contract or for any other financed claims that may be made by subcontractors, suppliers of material or employees engaged by him to carry out terms of this Contract."
- (3) ICA regulations concerning cashier responsibilities provide that "Funds may not be transmitted or entrusted to other employees who are not authorized to receive such funds."

This matter is submitted for your consideration as required by paragraph 2 of Comptroller General's Order No. 3.0 when it appears that a request for relief should be denied.

John P. Abbadessa

John P. Abbadessa
Deputy Director

Enclosures

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Indorsement

Director, Civil Accounting and Auditing Division

Returned. The record discloses that Charles D. Wright, a Class A Agent Cashier, was transferred from Kandahar, Afghanistan, to Kabul on October 5, 1959, and that A. T. Wisner, Alternate Agent Cashier, administered the funds in his absence. On December 19, 1959, Mr. Wisner advanced 67,415.50 Afghanis to Mohammed Halim Salimi, Senior Clerk, Procurement, to pay 55 petty cash invoices owing to local bazaar vendors. Mr. Salimi disbursed 62,088.50 Afghanis to various vendors on December 19 and 20 and obtained the proper receipts therefor, leaving 5,327 Afghanis to be disbursed to 2 vendors. On the morning of December 21, 1959, Mr. Salimi went to the bazaars in a Government-owned jeep to effect payment to the remaining 2 vendors. However, an extensive civil disturbance occurred in the bazaars on that day and the rioters attacked Mr. Salimi's jeep, injured Mr. Salimi, his driver, and 2 policemen who attempted to protect him, and stole his briefcase containing the 5,327 Afghanis and the associated petty cash tickets. It is noted that the riots were of such severity as to require troops with tanks to subdue.

Paragraph II A of the International Cooperation Administration Manual Order No. 755.2, effective September 1, 1959, defines a Class A Cashier as follows:

II. DefinitionsA. Cashier

"A Cashier is defined as an officer or employee of ICA who has been designated by the Treasury Department upon recommendation of the agency to make disbursements and to perform limited cash disbursing functions or other cash operations for the agency. Cashiers are designated as 'Principal' when they function as the person responsible for the cash transactions of a given organizational segment (USOM, administrative office in ICA/W, etc.), or as 'Alternate' when they function during the absence of a principal cashier and/or where the volume of work requires the principal to have alternates. Cashiers are further classified as follows:

"1. Class A - One who receives an advance from a Disbursing Officer for an imprest fund, is accountable in his own name to the Disbursing Officer, and

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has not been authorized to advance an imprest fund to another Cashier except his alternate."

Also, Paragraph IV of the above-cited order describes cashier responsibilities in pertinent part as follows:

"IV. Cashier Responsibilities

"Cashiers disburse pursuant to delegation of authority from the Division of Disbursements, Treasury Department and are authorized to perform disbursing duties as set forth in the Letter of Designation. In the performance of these duties the Cashier is held personally accountable and responsible to the United States and must conform to the procedures and instructions provided for his guidance. Some of the more important duties and responsibilities of Cashiers are enumerated in the following subsections:

"A. Advances to Cashiers

"Imprest funds are advanced to Cashiers by the local Disbursing Officer. * * * The responsibility for funds so advanced continues with the Cashier until he makes proper and acceptable accounting to the Disbursing Officer who made the advance or other officer directed to receive the accounting. * * *"

These regulations clearly apply to an alternate cashier as well as to the principal cashier and an alternate would appear to be responsible for his own actions, at least when he is functioning as the cashier in the absence of the principal.

The record clearly establishes the fact that Mr. Wright left Kaudahar under official orders prior to the loss of funds here involved, and that he turned over his disbursing functions to Mr. Wisner, his properly designated alternate. ICA airgram dated February 9, 1960, states that upon closing out Mr. Wright's account on January 28, 1960, all funds were accounted for except for the 5,327 Afghanis stolen from Mr. Salimi. Thus, it is apparent that the account was in balance when turned over to Mr. Wisner and, since such transfer was properly authorized, it is equally apparent that Mr. Wright has satisfied his obligation to make "proper and acceptable accounting" of the funds in his custody as required by the regulations. Since the funds were lost during the period when Mr. Wisner was officially performing the disbursing functions and while he was in complete control thereof, it is apparent that he and not Mr. Wright must bear any responsibility which may attach to such loss. See B-122688, September 25, 1956. Since the loss occurred without any fault or negligence on the part of Mr. Wright, he should be relieved of liability therefor.

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With respect to relieving Mr. Wisner under the provisions of 31 U. S. C. 82a-1, it is noted that Paragraph IV B 1 of International Cooperation Administration Manual Order No. 755.2, effective September 1, 1959, provides in pertinent part in connection with payments for miscellaneous purchases that:

"B. Disbursements

"1. Payments for Miscellaneous Purchases

"Payments under this category are limited to \$100.00 for any one transaction and are governed by provisions of M.O. 532.1 as implemented by this subsection. Cashiers are authorized to make payment in cash or to entrust sufficient cash to an employee authorized in accordance with M.O. 532.1 to make payment for a specific purchase under the following conditions:"

and that Paragraph IV A of the same order provides in pertinent part that:

" * * * Funds may not be transmitted or entrusted to other employees who are not authorized to receive such funds."

Also, Paragraph III of International Cooperation Administration Manual Order No. 755.3, effective December 20, 1957, which pertains to the surety bonding of ICA employees, provides:

"III. Employees Required to be Bonded

"Each ICA employee authorized to perform duties in one of the following positions is required by statute, or by regulations or administrative policy to be covered by a surety bond before assuming such responsibilities:

- "A. Assistant Disbursing Officer
- "B. Cashier
- "C. Other employees handling cash (as Collection Clerks, Messengers, etc., who by virtue of their duties are responsible for the receipt, payment, or other handling of official funds).
- "D. Authorized Certifying Officers

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"When a U.S. Citizen is authorized to perform and is actually performing the duties in one of the above positions, coverage is provided by such position title in the ICA position schedule bond. When a local employee of ICA is authorized to perform duties in one of the above positions, coverage is provided individually by name in the name schedule bond."

By letter dated July 5, 1960, the Acting Chief, Field Operations Staff, Office of the Controller, ICA, advised that Mr. Salimi was not an employee of the ICA Mission at Kandahar, but was employed by one Hermann Klee, who had a contract with the Mission to furnish, among other things, clerical services. The same letter indicates that, while both Mr. Wright and Mr. Wisner were bonded, it is not known whether Mr. Salimi or other contract personnel were bonded. Hence it appears that Mr. Wisner did not comply with the above-quoted regulations in that he entrusted funds in his custody to a person who was not an employee of ICA and who was not bonded. It is obvious that entrusting funds to an unauthorized person in violation of explicit regulations must be deemed negligence and the responsible officer must be held liable for any loss or defalcation arising from or attributable to such negligence. However, it is equally obvious that the loss here involved was not the result of or attributable to this negligence. Clearly, in the circumstances, the funds would have been stolen from Mr. Salimi even if he had been an employee of the Mission and had been bonded. Also, even if he had been bonded, a surety bond does not ordinarily protect against burglary or theft by violence and would have served no useful purpose. It is true that if Mr. Wisner had not entrusted the funds to Mr. Salimi they could not have been stolen from him by the rioters. However, it seems equally true that the funds could have been stolen by the rioters no matter who had custody thereof. Payment of the bills involved was due and would have been made or attempted at that time by someone. Had Mr. Wisner entrusted the funds for this purpose to another person, who was an employee and was bonded, or had taken the funds to the bazaar himself at that time, the same risk of attack and theft would have been incurred. The civil disturbance was the proximate cause of the attack and theft and not any negligence on the part of either Mr. Wisner or Mr. Salimi.

Hence, while Mr. Wisner would appear to be subject to censure for failure to comply with the regulations, it cannot be held that the loss of funds was due to or arose from his fault or negligence, and he may be relieved under the provisions of 31 U. S. C. 82a-1 from liability for the loss upon the appropriate findings and request of the proper official. The findings and request in this case were made by the Assistant Deputy Director, Controller. No proper delegation of authority to this official has been found. See International Cooperation Administration Manual Order No. 700.1, effective November 9, 1953, and Order

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No. 700.2, effective June 18, 1957. However, we have been advised informally that the International Cooperation Administration is searching for a delegation of the necessary authority to the Assistant Deputy Director, Controller, and that we will be furnished a citation thereto upon its location. We have been advised further that if no such delegation can be found, the request will be resubmitted immediately over the signature of the Director. Upon receipt of either a citation to an appropriate delegation of authority or a new request over the Director's signature, relief may be granted.

FRANK H. WEITZEL

Assistant Comptroller General
of the United States

Attachments