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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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OFFICE OF GENERAL COUNSEL

B-189613

June 8, 1978

The Honorable Paul H. Taylor
Acting Fiscal Assistant Secretary
Department of the Treasury

Dear Mr. Taylor:

This refers to the request of former Fiscal Assistant Secretary Mosso that relief be granted for balances representing net shortages of $16,896.46 in the "Cash Division, Cash Over and Short Account," and $29,690.44 in the "Currency Redemption Division, Cash Over and Short Account," under 31 U.S.C. § 82a-1 (1970). These net shortages have accumulated during the period April 1956 through March 31, 1977. The net shortages evidently represent the total of an unspecified number of individual losses over this 21-year period.

You explain that the shortages arose in connection with the activities of the Division of Cash Services, Bureau of Government Financial Operations, and its predecessors, the Cash Division and the Currency Redemption Division. These activities included: (1) receiving coin deposits from local banks; sending coin unsuitable for recirculation to the Mints; and paying out coin suitable for recirculation and new coin to local banks; (2) a cash room operation which dealt primarily in over-the-counter transactions with the general public such as cashing U. S. Treasury checks, and cashing and selling U. S. Savings Bonds; (3) collecting commercial and U. S. Treasury checks deposited with the Treasury by Government agencies; (4) receiving currency deposits from local banks; counting, examining, and sorting the currency as to that which is fit for recirculation and that which is unfit for recirculation; and paying out fit and new currency to local banks; and (5) receiving mutilated currency claims, examining and determining the value of the fragments, and redeeming the currency so identified. (Most of these activities have now been or will be assumed by the Federal Reserve Banks.)

First, we note that 31 U.S.C. § 757c(i) (1970) requires losses resulting from payments made in connection with the redemption of savings bonds and savings notes to be replaced out of the fund established by the Governments Losses in Shipment Act, as amended, 40 U.S.C. § 721 *et seq.* (1970), and authorizes the Secretary of the Treasury to relieve the Treasurer of the United States upon a finding that the losses resulted from no fault or negligence on the part of the Treasurer, without referring the matter to our Office. We assume that none of the losses connected with cashing and selling savings bonds for which you now seek our action falls within 31 U.S.C. § 757c(i).

The GAO Policy and Procedures Manual calls for prompt reports of financial irregularities, both to avoid the running of the 3 year statute of limitations (31 U.S.C. § 82i (1970) discussed below) and to determine more quickly whether relief should be granted or denied.

Thus, we formerly called for a preliminary report as soon as any irregularity was determined, with a detailed report to follow within a reasonable length of time. We now require a report to us of irregularities (which have not been resolved administratively) 2 years after the date the accounts are made available to this Office for audit. 7 GAO Policy and Procedures Manual § 28.14; B-161457, August 1, 1969. (Fraud or other serious irregularities of substantial amount or significance must still be reported as soon as possible.)

Our authority to settle the accounts of an accountable officer, and hence to grant or deny relief, is limited to a 3-year period by 31 U.S.C. § 82i (except when a loss is due to fraud or criminality of the accountable officer). It is no longer required that accounts of accountable officers be physically transmitted to this Office. Rather, they are retained by the various agencies where they are subject to audit and settlement by GAO. Accordingly, we consider the date of receipt by the agency of substantially complete accounts as the point from which the 3-year period established by 31 U.S.C. § 82i begins to run. B-181466, July 10, 1974.

In this case, since there is no evidence of fraud or criminality, the statute of limitations (31 U.S.C. § 82i) means that accounts submitted to Treasury more than 3 years before this date must be regarded as settled. There is no occasion to consider relief requests with regard to these accounts. With the information you provided, we cannot determine whether the United States would have had the right of recovery in any of these time-barred cases, but if there was such a right, it has been extinguished because they were not reported in a timely manner as required.

Moreover, we lack sufficient information on which to base either a grant or a denial of relief in any of the cases submitted, whether time-barred or not. The statement in your letter, that you have determined that the employees involved were all acting in the discharge of their official duties and that the shortages occurred without fault or negligence by these employees, is not sufficient basis for our action on the relief requests. Without supporting evidence of the circumstances of each incident, we cannot review independently the agency's determination, as the relief statute contemplates.

Concerning irregularities in accounts submitted within the last 3 years, action on which is not yet time-barred, Treasury has had authority delegated by us to exercise relief authority for losses in the accounts of accountable officers for amounts under $500. Pursuant to that authority, and consistent with the standards which are required to be applied in determining whether relief should be granted (B-161457, August 1, 1969), Treasury may itself resolve those cases involving irregularities of less than $500 and in which substantially complete accounts have been submitted to it less than 3 years before it acts, under the delegated authority. With regard to the applicable standards, we have consistently held that when money disappears for an unexplained reason, the disappearance is sufficient to raise a presumption of negligence. Relief may not be granted unless that presumption is overcome by specific, complete, and convincing evidence.

Any irregularities of $500 or more in accounts submitted less than 3 years ago may be submitted to this Office for relief pursuant to 31 U.S.C. § 82a-1. Any such submissions must, however, be accompanied by whatever documentation Treasury may have of the reviews which, according to your letter, were conducted by Treasury officials in all cases. Action either to resolve cases administratively or to submit them to us under this paragraph should be taken without delay, to minimize the number of additional irregularities which may be time-barred.

Finally, over and short accounts should be cleared at least annually and any irregularities should be reported to this Office as required by the GAO Manual in a timely manner.

Sincerely yours,

Paul G. Dembling

Paul G. Dembling
General Counsel