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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

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OFFICE OF GENERAL COUNSEL

B-193174

NOV 29 1978

Mr. John A. Hurley, Assistant Commissioner
(Administration)
United States Customs Service
Department of the Treasury
Washington, D.C.

Dear Mr. Hurley:

This is in response to the request from your office (your reference FIS-4-12-A:10 JRF), that the Regional Commissioner of Customs, Region 7, Los Angeles, California, as the accountable officer, be relieved of liability for a loss in his collection account of \$2,190.57.

The record indicates that the loss in question occurred sometime between 4:30 p.m., Friday, January 27, 1978 and 8:00 a.m., Monday, January 30, 1978, when the Los Angeles Airport US Customs Cashier's office was burglarized and approximately \$166,658.36 in checks and cash was stolen. Friday's collections had been scheduled to be picked up on Monday by an armored car service, in accordance with the established practice of depositing in the Bank of Finance one day's collections on the following business day. Replacement checks were obtained for most of the endorsed checks stolen, which reduced the net loss of Customs to \$2,190.57.

Entry into the cashier's office was gained by forcing a wood panel door covering the window opening into a hallway from which the cashier served the public. There was no physical evidence, however, that the safe, rated fire (2 hours) and burglary (20 minutes) resistive, had been forcibly entered.

Upon being informed of the burglary, an agent of the Office of Investigation responded, and notified the Los Angeles Police Department, the Federal Bureau of Investigation (FBI), and the Office of Internal Affairs, all of which sent agents to investigate the crime. The FBI report indicated that physical evidence was obtained from the crime scene and interviews were conducted with pertinent Customs employees as well as logical suspects in an effort to develop information concerning the burglary, but that no information of value has been developed. The FBI advised that it was conducting no additional investigation of this burglary. However, if information is developed in the future which would identify the perpetrators, active investigation will

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be reinitiated and the appropriate Customs officials will be promptly notified. The Regional Director, Internal Affairs, stated that his office worked closely with the FBI to monitor any developments involving Customs personnel, but had not initiated a separate investigation since there had been no indication of fault or negligence by Customs personnel.

Our Office is authorized to grant accountable officers relief from liability for physical losses of Government funds, etc., under certain conditions prescribed by 31 U.S.C. § 82a-1¹(1970) which provides in pertinent part as follows:

"The General Accounting Office is authorized, after consideration of the pertinent findings and if in concurrence with the determinations and recommendations of the head of the department or independent establishment concerned, to relieve any disbursing or other accountable officer or agent * * * charged with responsibility on account of physical loss or deficiency of Government funds, vouchers, records, checks, securities, or papers in his charge * * * if the head of the department or independent establishment determines (1) that such loss or deficiency occurred while such officer or agent was acting in the discharge of his official duties, or that such loss or deficiency occurred by reason of the act or omission of a subordinate of such officer or agent; and (2) that such loss or deficiency occurred without fault or negligence on the part of such officer or agent."
(Emphasis supplied.)

It appears from the record that there was no evidence of fault, negligence, breach of security, or failure to observe requisite procedures to insure maximum safety, by any of the United States Customs personnel which could have resulted in the loss of the stolen funds. There has been an administrative determination by the United States Customs Service that the Regional Commissioner of Customs, Los Angeles, California, while acting in the discharge of his official duties has suffered the aforementioned loss in his account through no fault or negligence on his part or on the part of any employee in his office. There is no evidence in the record to the contrary.

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Accordingly, we concur in the administrative determination, and grant relief to the Regional Commissioner, in the amount of \$2,190.57, under the provisions of 31 U.S.C. § 82a-1X(1970). The United States Customs Service appropriation for salaries and expenses may be charged with the shortage.

Sincerely yours,

MILTON SCOLAR

Milton J. Socolar
General Counsel