

B-258275

December 1, 1994

Ms.  
U.S. Embassy Bridgetown  
FPO AA 34055-0002

Dear Ms. :

Senator Durenberger by letter of August 11, 1994, transmitted your claim here for \$1,831, the amount of a U.S. Treasury check that you received at your previous duty station, the U.S. Embassy, Suva, Fiji, and endorsed for deposit into your account at the Department of State Federal Credit Union in Alexandria, Virginia. You state that the check was issued to reimburse you for travel home at State Department expense. You also state that you sent the endorsed check from Fiji via Department of State diplomatic pouch for delivery to the credit union. The check apparently was lost or stolen en route, as it was not deposited to your account, but was cashed by a foreign bank in Djibouti. Subsequent investigation showed that a claim you may have against the bank in Djibouti appears to be worthless, since that bank is out of business with no successor bank appointed to discharge its liabilities. Apparently it was never determined how the check was lost or stolen.

The Department of State correctly informed you that it may pay only once for the obligation that the check represented, which upon payment on the check was charged to State Department funds. We note also that under State Department regulations, when diplomatic pouches are used for personal mail, as the pouch was in your case, registered or insured service is not available and the Department accepts no liability for loss or damage. See 5 F.A.M. § 332.3. In an attempt to assist you, however, the State Department referred the matter to the Treasury Department requesting issuance of a replacement check. In response, Treasury provided a detailed explanation of why it is not

liable for the proceeds of the check and why it may not authorize a replacement check. We do not disagree with that conclusion.<sup>1</sup>

We are not aware of any basis for governmental liability for losing your check or for the cashing of the check at the bank in Djibouti to which the check was presented.

Accordingly, we are unable to authorize payment of your claim.

Sincerely yours,

/s/ Seymour Efros  
for Robert P. Murphy  
Acting General Counsel

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<sup>1</sup>Pursuant to 31 U.S.C. § 3331, Treasury may issue a substitute check when the original is lost or stolen, but only if the original has not been paid. In this case, the check deposited in the Djibouti bank was passed through a New York bank and paid by the Treasury prior to receipt of notice that it had been lost or stolen. While pursuant to 31 U.S.C. § 3343, under certain conditions, Treasury may pay to the proper payee the amount of a check which has been lost or stolen and negotiated and paid on a forged endorsement, that provision is not applicable in this case because the endorsement was not forged.

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## DIGEST

A claim may not be allowed for the amount of a U.S. Treasury check a State Department employee received at her overseas duty station, and endorsed for deposit and sent via the Department's diplomatic pouch to her credit union in the U.S. The check was not deposited in her credit union account but apparently was lost or stolen en route, and it was cashed in a foreign bank. Treasury Department determined that a replacement check may not be used because the government is not liable for the wrongly cashed check. Neither is there any authority under which GAO may allow payment.