



Office of the General Counsel

B-242830

September 24, 1991

Mr. William L. Kendig
Director of Financial Management
United States Department of the Interior

Dear Mr. Kendig:

This responds to your request of January 30, 1991, that we relieve Ms. _____, imprest fund cashier, and Ms. _____, alternate cashier, for the unexplained loss of \$3,005.75 in imprest funds. For the reasons set out below, we grant relief to Ms. _____ and Ms. _____.

BACKGROUND

Based on your submission, the facts are as follows. In June 1990, Ms. _____ was the imprest fund cashier and Ms. _____ the alternate cashier at the Mineral Management Service, Alaska Administrative Satellite Office (AASO) in Anchorage, Alaska. The two cashiers worked out of separate cash boxes maintained in a small combination safe. In addition to the two cashiers who use the safe, Mr. _____, the supervisor of the office, and one other person, can gain access to the safe in the event of an emergency. A copy of the combination is maintained in double sealed envelopes that are kept in a locked box in the office of the contracting officer. (The seals of the envelope had not been disturbed.)

On Friday, June 29, 1990, Ms. _____, balanced her cash drawer at 8:30 a.m. and then made one transaction for \$58 during the day. After lunch that day (1 p.m.), she recounted the money and placed it in the cash drawer. She placed the money back in the safe, spun the knob, checked the handle to make sure it was locked and placed the knob back to zero. That was the last time Ms. _____ entered the safe on June 29. Ms. _____ left for the day on June 29 at noon and at that time the safe was closed.

The record reflects that during the evening of Sunday, July 1, Mr. _____, an employee of the janitorial service company, found the safe open with the two cash boxes inside. There were no signs of forced entry into the safe. Mr. _____ states that he found cash on the top of the

cash boxes inside the safe. Mr. _____ and his foreman counted \$1,480 and then placed the cash in an envelope which their supervisor turned over to the building manager on Monday morning.

The building manager called Ms. _____ to tell her of the AASO money that had been taken from the safe which had been found open on Sunday evening. Ms. _____ advised Ms. _____ of the incident, and they subsequently checked their cash boxes to find money missing.

AASO subsequently determined that little over \$300 was left in the cash boxes inside the safe and, after accounting for the \$1,480 in the envelope, \$3,005.75 was missing. The incident was reported to the Federal Protection Service, Federal Bureau of Investigation, and the U.S. Secret Service. These agencies referred the investigation of the \$3,005.75 loss to the Anchorage Police Department. The investigation did not reveal sufficient information to identify a subject or to seek prosecution. You have determined that the loss was not the result of fault or negligence by Ms. _____ or Ms. _____.

Discussion

An accountable officer is held to a high standard of care with respect to funds with which the officer is charged and is presumed negligent at the moment a physical loss occurs. 54 Comp. Gen. 112, 114 (1974); B-241478, Apr. 5, 1991. However, under 31 U.S.C. § 3527(a) (1988), this Office is authorized to relieve an accountable officer of liability for a physical loss of government funds if we concur in the determination of the head of the agency that: (a) the loss occurred while the officer was carrying out his official duties and (b) that the loss was not the result of fault or negligence on the part of the officer. B-230796, Apr. 8, 1988.

To grant relief under section 3527(a), the presumption of negligence must be rebutted with convincing evidence that the loss was not caused by the accountable officers' negligence or lack of reasonable care. B-241478, Apr. 5, 1991. Indeed, the mere absence of evidence implicating the accountable officer in the loss is not sufficient to rebut the presumption of negligence. B-209569, Apr. 13, 1983.

You maintain that the two accountable officers were without fault or negligence and characterize the loss of funds as an "apparent theft." You indicate that the loss apparently occurred during non-business hours between Friday evening June 29, and sometime on Sunday July 1. In physical loss cases where the evidence shows that a theft took place and an investigation reveals no connection between the accountable

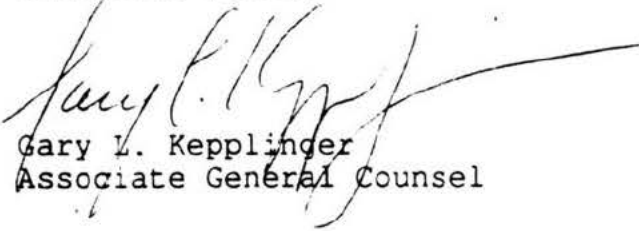
officer and the theft, the presumption of negligence is rebutted and we have granted relief to the accountable officer. See, e.g., B-235180, May 11, 1989; B-232252, Jan. 5, 1989. Here, however, there is no evidence of forced entry into the safe or cash box. Under these circumstances, we treat the missing funds as "an unexplained loss", and examine the record to see whether there is an affirmative showing of due care, B-214080, Mar. 25, 1986. The record indicates that Ms. [redacted] locked the safe after she completed the only transaction she made on June 29 and that was the last time she entered the safe that day. Ms. [redacted] stated when she left for the day on June 29 at noon, the safe was closed.

In addition, according to agency officials, [redacted], one of the last employees to leave the office on June 29, stated that the safe was closed. Moreover, the record indicates that none of the office employees had returned to work over the weekend. Nor is there any evidence in the record to rebut the cashiers' statements that the safe was locked the last time either of them used it. See B-188733, Mar. 29, 1979, aff'd on reconsideration, Jan. 17, 1980.

Additionally, the record shows no violation of the applicable regulations regarding safeguarding the combination to the safe. See Financial Management Service, Manual of Procedures and Instructions for Cashiers 3 (July 1985). Ms. [redacted] and Ms. [redacted] have stated that they memorized the combination to the safe which contained the imprest fund, and the combinations maintained in the contracting officer's office were appropriately maintained. Under these circumstances, we believe the accountable officers exercised due care.

The agency has determined that the loss was not the result of negligence on the part of either Ms. [redacted] or Ms. [redacted]. For the above reasons, we concur with this administrative determination and grant relief from liability to Ms. [redacted] and Ms. [redacted].

Sincerely yours,


Gary L. Kepplinger
Associate General Counsel