



Office of the General Counsel

B-241098; B-241137

December 27, 1990

Mr. Gerald Murphy
Fiscal Assistant Secretary
U.S. Department of the Treasury
Washington, D.C. 20220

Dear Mr. Murphy:

This responds to your requests of September 7, 1990, that Mr. [redacted], Director of the Chicago Financial Center (Center), Financial Management Service, be relieved from liability for two erroneous payments totalling \$1,742.38 in government funds. You state that the erroneous payments did not result from the bad faith or lack of due care on the part of Mr. [redacted]. We concur in your finding and thus relieve Mr. [redacted] from liability.

The record reflects that the two overpayments resulted from the inadvertent release of both original and replacement tax refund checks which were both cashed. The errors occurred as follows: During the printing of the tax refund checks, the printing system rejected check number 17,992,748 (made payable to [redacted] for \$450.36) and check number 17,992,865 (made payable to [redacted] for \$1,292.02). Both checks were automatically replaced with checks of the same serial numbers and symbol numbers. However, the printer operator failed to remove and void the original checks. Consequently, both the original and duplicate checks were issued and negotiated by Mr. [redacted] and Mr. [redacted].

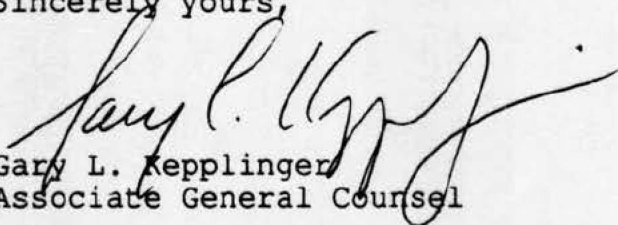
Under 31 U.S.C. § 3527(c) we may relieve a disbursing officer from liability for an illegal, improper or incorrect payment when the payment "was not the result of bad faith or lack of reasonable care" and there is evidence that the agency has made diligent collection efforts. 62 Comp. Gen. 476, 478 (1983). Where, as here, the incorrect payments were made by the disbursing officer's subordinates, we generally will find that the disbursing officer acted with reasonable care for purposes of 31 U.S.C. § 3527(c) upon a showing that the officer properly supervised his employees. "Proper supervision is demonstrated by evidence that the supervisor maintained an adequate system of procedures and controls, and that appropriate steps were taken to ensure the system's implementation and effectiveness." B-239371, June 13, 1990, B-239094, June 13, 1990. This evidence must be sufficient for

us to determine independently whether adequate procedures were in place. Id.

In your submission you included a copy of applicable operating procedures in effect at the time the overpayment occurred. The memorandum of facts accompanying your submission also states that the employees involved in the overpayment were trained prior to starting their jobs and that applicable procedures were made available to them. Additionally, supervisors were present and periodic checks were conducted to assure that the procedures were being followed. Because Mr. [redacted] appears to have maintained an adequate system of procedures and controls which his subordinates were aware of, we find that the overpayment was not the result of bad faith or lack of reasonable care by Mr. [redacted]. The agency also made diligent collection efforts by repeatedly attempting to contact the payees and reclaim the erroneous payments. Accordingly, we grant relief to Mr. [redacted].

We emphasize that even though relief has been granted, your agency still has an affirmative duty to pursue aggressive collection of the erroneous payments from the recipient.
62 Comp. Gen. at 479.^{1/}

Sincerely yours,



Gary L. Kepplinger
Associate General Counsel

^{1/} We note that in Mr. [redacted]'s case, he was successfully contacted by telephone and he agreed to repay the government once he found employment. Moreover, the Internal Revenue Service agreed to withhold Mr. [redacted]'s future payments to offset the indebtedness. The Federal Claim Collection Standards provide several specific alternatives including but not limited to: collection in installments, offset, and compromise of claims, 4 C.F.R. §§ 102 and 103 (1990).