



Office of the General Counsel

B-237420

December 8, 1989

Mr. Conrad R. Hoffman
Principal Deputy Assistant
Office of Budget and Finance
Department of Veterans Affairs

Dear Mr. Hoffman:

This is in response to your letter of October 2, 1989, requesting that [redacted], agent cashier for the Department of Veterans Affairs New Orleans Regional Office, be relieved of liability for the loss by theft of funds in the amount of \$760. For the following reasons we grant relief.

The record reflects that on August 10, 1989, at approximately 8:15 a.m., a person approached Mr. [redacted] cashier's window and handed him a note stating that a bomb had been placed on the second floor of the building and demanding money in the form of 10 and 20 dollar bills. Upon reading the note, Mr. [redacted] pressed the "silent" alarm button and attempted to stall until security personnel arrived. Apparently the alarm was not functioning. The perpetrator became impatient, placed his hand in his belt line, implying that he was armed, and stated "GIVE IT TO ME RIGHT NOW." Mr. [redacted] complied and placed \$760 on the service window ledge. The robber took the money and shoved another note through the cashier's window before escaping down a stairwell and eluding security personnel. The note had written on it "no bomb." The Federal Bureau of Investigation was notified immediately.

The robber turned himself in to Postal Security personnel on August 15, 1989, and was later taken into custody by the FBI. None of the money has been recovered.

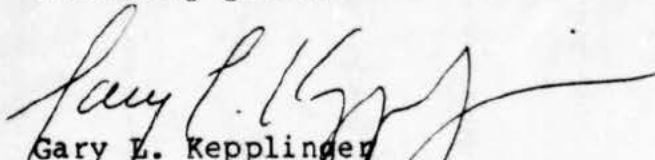
Under 31 U.S.C. § 3527, our Office is authorized to relieve accountable officers of liability for a physical loss of government funds if we concur in the determination by the head of an agency that: (a) the loss occurred while the officer or agent was acting in the discharge of his or her official duties and (b) that there was no fault or negligence on the part of the cashier which contributed to the loss. B-236079, Aug. 7, 1989. Anytime a physical loss of funds occurs there arises a rebuttable presumption of

negligence on the part of an accountable officer. Id. However, when 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-217773, March 18, 1985 (armed holdup of vehicle carrying VA agent cashier); B-213721, January 31, 1984 (armed robbery at cashier's window).

You have made the requisite administrative determination that the loss of the funds occurred through no fault or negligence on the part of Mr. . Although you have not formally made the requisite determination that the cashier was acting in the discharge of his official duties, recital of the facts makes it clear that this was your conclusion. See e.g., B-235180, May 11, 1989. Since the evidence in the record shows that Mr. was not implicated in the theft, we concur with the administrative finding that the loss was not a result of fault or negligence on his part.

Accordingly, we grant relief to the above-mentioned cashier. The loss may be charged to the proper appropriation in accordance with 31 U.S.C. § 3527.

Sincerely yours,


Gary L. Kepplinger
Associate General Counsel