



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-230470, 230593

October 17, 1988

Colonel John P. Barrow
Chief of Staff, Finance Corps
U.S. Army Finance and Accounting Center
Indianapolis, Indiana 46249

Dear Colonel Barrow:

This responds to your requests of February 8 and 18, 1988, that we relieve Lt. Col. [redacted], Finance Corps, DSSN 6411, Finance and Accounting Officer, 175th Finance and Accounting Office-Korea, APO San Francisco, and his deputy Capt. [redacted], under 31 U.S.C. § 3527(c) for two improper payments. One of the payments was a check in the amount of \$1,381.78 issued to the Bank of Hawaii for deposit to the account of Mr. [redacted] and the other was a check in the amount of \$1,046.20 issued to the Honolulu Federal Savings and Loan Association for deposit to the account of Mr. [redacted]. We have combined these cases because of the similarity of the fact patterns in each. As will be discussed below, it is not necessary for us to grant relief in these cases since the charges to the accounts should be reversed by the Department of the Treasury. See, Treasury Fiscal Manual, Part 4, para. 7085.25 and Army regulation 37-103, para. 5-57(c)(rev. 1988) (formerly para. 4-149(a); and B-220765, May 12, 1986.

BACKGROUND

In December 1983, a number of civilian composite payroll checks prepared for Hawaiian banks were never received by the intended financial institutions. Substitute checks were issued to a number of these banks based on their individual requests for stop payments and allegations that the original checks had not been received. Both the Bank of Hawaii and the Honolulu Federal Savings and Loan Association made the requisite requests and in each instance a substitute check was issued. Subsequently, the original checks were negotiated at foreign banks by fictitious payees. According to the CID report, it appears that person(s) unknown stole the checks intended for the Hawaiian financial institutions. The stolen checks were altered by typing a fictitious name

above the bank's name. The checks were then endorsed using the name of the fictitious payee and negotiated at foreign banks in Hong Kong and Switzerland.

DISCUSSION

It is clear that the Hawaiian financial institutions were not involved in the negotiation of the original checks. In a duplicate payment case, when the payee (in these cases the financial institutions) denies negotiating one of the checks, the finance officer is to send a letter to Treasury's Stop Pay Branch, Division of Check Claims, Financial Management Services (formerly Bureau of Government Financial Operations) giving the facts of the case and attaching legible copies of both checks. Further, the finance officer is to ensure that the payee properly fills out and mails to Treasury a completed TFS Form 1133 (Claim Form). Army regulation 37-103, para. 5-57(c) (rev. 1988) (formerly para. 4-149(a)). Under Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies, Part 4, para. 7085.25b, if Treasury confirms that the payee was not involved in the negotiation of one of the checks involved it will reverse the charge to the finance officer's account.^{1/}

The Honolulu Federal Savings and Loan Association refused to complete the necessary paperwork. However, it appears that the Bank of Hawaii's claim form was properly sent to Treasury. According to your submission, Treasury refused to

^{1/} Under the current recertification procedures which replaced the procedures in TFRM 4-7000, if the payee has only negotiated one of the checks involved in the duplicate payment case, the Division of Check Claims:

"will seek to recover through the banking system and forward the amount, if recovered, to the agency" Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies (TFRM), Bulletin No. 83-28 para. 11(3) (emphasis added).

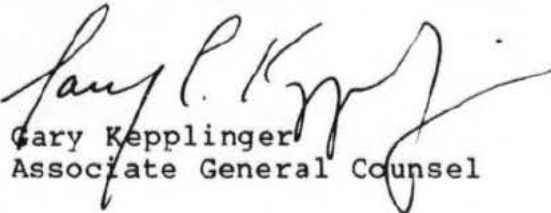
However, since these cases involve substitute checks and not recertified checks and since the original checks were issued before the recertification procedures went into effect, we believe that the procedures under former TFRM Part 4, para. 7085.25b should apply.

process the bank's claim form. You indicate that a Treasury official informed you that the payee whose name appears first on a check must fill out the claim form. This would mean that, in these cases, the fictitious payee would have to complete the form for the Treasury process to begin.

We contacted the Branch Manager of the Check Adjudication Branch of Treasury for his views on this matter. He agreed that the fictitious payee was not the proper party to fill out a claim form. He indicated that the Army should resubmit the claim form from the Bank of Hawaii and that it would be processed. He also stated that the finance officer's account would be credited in due course.

We relayed this information to your office and suggested that you resubmit the Bank of Hawaii's claim form and again try to convince the Honolulu Federal Savings and Loan Association to complete the necessary paperwork. We have been informed that both financial institutions have now sent a claim form to Treasury. Accordingly, since the finance officer's account will be credited once the Treasury process is complete, there is no need for us to grant relief.

Sincerely yours,



Gary Kepplinger
Associate General Counsel