



Office of the General Counsel

B-192567

June 21, 1988

Mr. Gerald Murphy
Fiscal Assistant Secretary
Department of the Treasury

Dear Mr. Murphy:

This is in response to your letter of March 7, 1988, requesting reconsideration of that part of our decision, B-192567, Aug. 4, 1983, where we noted that the apparent negligence of Ms. [redacted], teller, was responsible for the loss of \$4,172.02 (revenue receipts) and \$180.78 (funds for change making purposes), totaling \$4,352.80, resulting from the disappearance of funds from the Springfield District Office of the Internal Revenue Service, Kansas City Center. For the reasons stated below, we affirm our decision B-192567, supra, and deny relief to Ms. [redacted].

Ms. [redacted] was the full-time permanent teller assigned to the teller section of the Springfield Office. Two alternate tellers were also assigned to the teller section, one full-time and one part-time. According to your submission, because the alternate tellers had limited training and experience, Ms. [redacted] "was responsible for instructing the two alternates as to how to perform their tasks."

On the morning of December 30, 1980, the full-time alternate teller, Ms. [redacted], received a large cash payment from a taxpayer, in the amount of \$3,856. She was instructed by the permanent teller, Ms. [redacted], to lock the money in Ms. [redacted] cash box and to place the cash box in a bar-locking file cabinet. Ms. [redacted] further advised Ms. [redacted] that in accordance with established procedures, the money would have to be removed before the day's end and placed in the 7th floor security safe located in the Security Branch, as the bar-locking cabinet would not provide adequate security for amounts over \$1,000. Ms. [redacted] stated in a January 5, 1981 letter that she had instructed Ms. [redacted] "to remind me to send it upstairs." However, contrary to usual procedure, the District Cashier, Ms. [redacted], was not notified about the cash and no

arrangements were made to remove the money to the 7th floor security safe. When Ms. [redacted] reminded Ms. [redacted] about the cash at the end of the day, Ms. [redacted] told her that it was too late to bring the money to the security safe. Ms. [redacted] advised Ms. [redacted] to lock her cash box and place it in the bar-locking cabinet. On the morning of December 31, 1980, it was discovered that the money was missing. Subsequent investigations revealed that the money had been stolen from the bar-locking cabinet. See B-192567, Aug. 4, 1983.

Ms. [redacted] was the only employee who knew the combination to the lock for the cabinet where she had instructed Ms. [redacted] to put the money. In placing the money in the cabinet to which only Ms. [redacted] had access, Ms. [redacted] gave up an aspect of the control of the funds to Ms. [redacted]. As such, Ms. [redacted] became responsible for and had custody of the government funds at that time, and thus became accountable for those funds. 59 Comp. Gen. 113 (1979). As the accountable officer, Ms. [redacted] was automatically liable at the moment the loss of the funds occurred. 54 Comp. Gen. 112 (1974).

This Office has authority to grant relief to accountable officers for the physical loss of funds when we agree with an agency determination that the loss occurred while the accountable officer was acting in the discharge of his or her duties and that the loss occurred without fault or negligence on the officer's part. 31 U.S.C. § 3527(a). While you have made this determination, we do not concur. Given the entire circumstances of this case, we do not think there is sufficient evidence demonstrating that Ms. [redacted] was without fault or negligence in the loss.

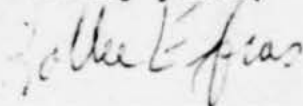
Among the facts not already discussed in our previous decision, the record indicates that the room in which the bar-locking cabinet was located contained two heavy duty, three combination-type metal safes. Ms. [redacted] was the only person who had the combination to these safes. As these safes were considered to provide adequate security for amounts up to \$2,500, and the file cabinet was approved for amounts of up to \$1,000, it is apparent that the safes were considered as providing greater security than the file cabinet. When asked why she did not place the funds in one of the safes, Ms. [redacted] simply stated that she had not thought about it. In sum, it was Ms. [redacted] decision to leave the funds in the bar-locking cabinet.

We do not find in the record sufficient indication that Ms. [redacted] exercised due care in the handling of the teller section and her training of Ms. [redacted]. Her conduct accounts for the funds coming into her possession under irregular circumstances. We think that the funds remained, contrary

to established procedure, in the bar-locking cabinet allowing them to be stolen due to Ms. [redacted] actions.

Additionally, Ms. [redacted] did not place the funds in either of the two heavy duty safes, that were available and that would have afforded greater security than the cabinet. Accordingly, our decision in B-192567, Aug. 4, 1983 is affirmed, denying Ms. [redacted] relief.

Sincerely yours,



(Mrs.) Rollee H. Efros
Associate General Counsel