



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

Office of the General Counsel

B-226849

June 5, 1987

The Honorable Chase Untermeyer
Assistant Secretary of the Navy

Dear Mr. Untermeyer:

This responds to your request of April 8, 1986, that we relieve Mr. L. R. Bond, Disbursing Officer, Personnel Support Activity, Norfolk, Virginia, under 31 U.S.C. § 3527(c), for an improper payment of \$415.00 to Personnelman Second Class (PN2) L. E. Malloy. As explained below, since the 3-year statute of limitation period has expired in this case, the account in question must be considered to be settled and the accountable officer involved cannot be held liable for any erroneous payment.

The record indicates that in December 1983, PN2 Malloy had been discharged from service in the Naval Reserves. Thereafter, on February 13, 1984, PN2 Malloy reported for active duty training at Norfolk, Virginia with bogus orders which were stamped "Certified" by the personnel office at the installation. Thereafter, on February 15, PN2 Malloy proceeded to the disbursing office, presented the orders along with a valid military identification card and received a check for \$415.00 representing his interim pay for the period of his purported active duty training.

After the check was issued, the documents submitted by PN2 Malloy when he received his check were reviewed at the supervisory level. Several phone calls were made which led the disbursing office to conclude that PN2 Malloy's orders were false and that receipts submitted in connection with the issuance of the check were altered.

On February 24, at the conclusion of PN2 Malloy's training period, he again reported to the disbursing office in an attempt to draw a final paycheck for the training period.

At this time, he was detained in the disbursing office and questioned by Naval Security personnel since it was clear that an improper payment had been made. Following this questioning PN2 Malloy was released from custody since he was a civilian and thus not subject to the Navy's jurisdiction.

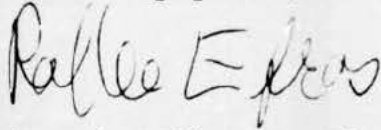
Subsequent collection efforts were made in accordance with the Joint Regulations of this Office and the Department of Justice, 4 C.F.R. § 101 et seq. (1986). Although these collection efforts proved unsuccessful, prosecution was ultimately declined by the Department of Justice in light of the small amount involved. We note that from February 1984, to August 1985, the loss was carried on Mr. Bond's books as a "deferred voucher". When it became obvious that collection could not be made, Mr. Bond changed the "deferred voucher" to a loss of funds in his records.

Under 31 U.S.C. § 3527(c), our Office is authorized to settle accounts of accountable officers, and hence to grant or deny relief "within 3 years after the date the Comptroller General receives the account" except where the loss is due to fraud or criminality by the accountable officer (or during wartime). As a result of changes in audit methods, accounts are now retained by the various agencies where they are subject to audit and settlement by our Office. To reflect this change, our Office now considers the date of receipt by the agency of substantially complete accounts, or, where accounts are retained at the site, the end of the period covered by the account, as the point from which the 3-year period begins to run. Our Office has consistently held that once the 3-year statutory period has expired, the account in question is considered settled and there is no need for our Office to consider whether or not to grant relief. See 62 Comp. Gen. 476, 480 (1982).

In the present case, the improper payment was made on February 15, 1984 and discovered between that date and February 24, when PN2 Malloy was detained in the disbursing office. Since there is no evidence of fraud or other criminality on the part of anyone in the disbursing office, the 3-year period within which our Office is required to settle this account could have expired no later than February 24, 1987. See B-217741, October 15, 1985, B-206591, April 27, 1982. Accordingly, we conclude that accounts covering the erroneous check payment of February 15, 1984, are settled and Mr. Bond cannot be held responsible for the loss that resulted from the issuance of that check.

In order to see that losses that are chargeable to accountable officers are properly recorded, relief should be requested promptly from this Office after reasonable efforts have been made to collect the loss. Normally, where there is an identified person other than the accountable officer against whom collection can be pursued, we think that 2 years is a sufficiently long period to attempt collection. After 2 years, any requests for relief should be forwarded to this Office to allow adequate time for consideration within the 3-year settlement period. Please refer to 7 GAO Policy and Procedure Manual § 28.14.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Rollee Efros".

(Mrs.) Rollee H. Efros
Associate General Counsel