



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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OFFICE OF GENERAL COUNSEL
B-197780

MAR 24 1980

AGC 00164

Admiral John B. Hayes
Commandant
U.S. Coast Guard
Washington, D.C. 20593

Dear Admiral Hayes:

This is in response to a request dated February 12, 1980, from Mr. E. J. Rowe, an authorized certifying officer of the Coast Guard, that we consider the claim of CWO George C. H. Roath, United States Coast Guard (retired), for \$1,473 which he paid to offset a shortage of funds which occurred in the discharge of his official duties as a Class "A" Cashier General. USCG
(RET.)

The \$1,473 claimed actually represents the sum of three separate shortages. The first two losses, in the amounts of \$103 and \$750, were discovered after the September 15, and September 29, 1975, paydays, respectively, and were initially believed by Mr. Roath to have resulted from overpayments. The third loss, an unexplained \$620 loss from bundled cash, was discovered in the course of an examination prompted by the September 29th loss. The \$1,473 shortage was officially reported on October 3, 1975, and on March 18, 1976, based on the reports and recommendations of his supervisors, CWO Roath was found financially responsible for the shortage. Repayment was ordered in accordance with the terms of 5 U.S.C. § 5514 (1976). Claimant now submits that the shortages were the result of a theft and that he therefore should have been relieved from liability.

Relief of an accountable officer from liability for a physical loss of funds may be granted by the General Accounting Office (GAO) only in accordance with 31 U.S.C. § 82a-1 (1976), which requires, as a condition precedent to granting relief, a determination by the head of the department concerned--

"* * * (1) that such loss or deficiency occurred while such officer or agent was acting in the discharge of his official duties, or that such loss or deficiency occurred by reason of the act or omission of a subordinate of such officer or agent; and (2) that such loss or deficiency occurred without fault or negligence on the part of such officer or agent. * * *"

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[REQUEST FOR RELIEF]

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The Coast Guard has not made this prerequisite determination and, in fact, has specifically concluded, pursuant to the delegated authority of the Secretary of Transportation, that CWO Roath should be held financially liable for the loss. The letter to us states that it is "clearly evident that the claimant repeatedly committed careless or negligent acts." The law does not permit this Office to grant relief under these circumstances.

Accordingly, we cannot allow CWO Roath's claim for the monies he paid into the Treasury as the result of these shortages.

Sincerely yours,

Harry R. Van Clove

For Milton J. Socolar
General Counsel