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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-199790

MAR 26 1981

[Request for Reconsideration of Liabil

Mr. Dennis J. Keilman
Acting Assistant Regional
Administrator of Administration
General Services Administration
230 South Dearborn Street
Chicago, Illinois 60604

Dear Mr. Keilman:

This letter is in response to your request for reconsideration of our decision, B-199790, August 26, 1980, which held that Mr. Richard Hensel was liable for the loss of $501.05 of General Services Administration (GSA) imprest funds, stolen from an unlocked safe while in Mr. Hensel's custody as alternate imprest fund cashier. In essence, the bases for your request are that Mr. Hensel having "closed the door and spun the wheel," reasonably assumed that he had locked the safe; that possibly the loss resulted from GSA having maintained the safe in an open area, easily accessible from the motor pool; and, that Mr. Hensel has since retired and is on retirement income. For the reasons stated below, we must still deny relief.

Originally, you indicated that Mr. Hensel closed the safe door and turned the wheel, which "semi-locked" the safe. We were unsure what that meant but assumed that the safe was left so that it could be opened by someone without knowledge of the combination. To leave the safe unattended in that condition was negligent.

Nothing in your latest letter justifies a different conclusion. It is negligent to assume, without trying to open it, that a safe is locked. Indeed, your letter suggests that the safe was left unlocked on other occasions.

We have consistently held that an accountable officer who fails to lock a safe, containing public funds in his custody, is negligent and liable for any losses. See, e.g., B-188733, March 29, 1979. In a similar case, we stated that "a reasonably prudent person, even under the pressures of a heavy workload, would nevertheless take the time to spin the combination and lock the safe." B-183559, August 28, 1975.

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In our view, Mr. Hensel's failure to lock the safe was the proximate cause of the loss. There is no evidence to indicate that the loss did in fact result from GSA maintaining the safe in an open area, easily accessible from the motor pool, or that the theft would not have occurred if GSA had taken additional security measures earlier. Even assuming that GSA could be considered to be negligent, there is no reason for concluding that Mr. Hensel was not also negligent. In this conection, the fact that due to the location of the safe the combination could have been discovered by unauthorized people is not relevant, since the safe was not locked.

Finally, in deciding whether to grant Mr. Hensel relief, we are without authority to take into consideration the fact that he has retired from GSA since the theft and is receiving retirement income.

Sincerely yours,

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel