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Mr. Zalkowitz

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-200867

DATE: March 30, 1981

MATTER OF: Patricia Worthy Clement - Unexplained
loss of travel fund advance

DIGEST: Where travel advance funds obtained by employee's secretary on basis of employee's signed request remain unaccounted for in circumstances giving rise to dispute as to whether funds were returned to Government when travel plans were cancelled, employee may not be relieved of liability for their loss on basis that she never obtained physical possession of such funds. Travel advancements are considered to be like loans to employee and, thus, her personal funds. Where employee cannot show that funds were either expended for travel or refunded to the Government, she is liable for their amount.

This action is in response to a letter dated October 9, 1980, from Mr. Gerald R. Pierce, Authorized Certifying Officer, Department of Housing and Urban Development (HUD), requesting an advance decision as to whether a claim by Patricia Worthy Clement, a former employee of HUD, for refund for \$230 withheld from a travel voucher to recover two outstanding travel advances, may be certified for payment.

Ms. Clement was issued two travel advancements on January 9 and 18, 1978, for \$80 and \$150 respectively, which were to be used by her to pay her travel expenses during two scheduled trips. Both of these trips were subsequently cancelled.

The record indicates that Ms. Clement never obtained personal possession of these funds. The \$80 cash travel advance was obtained from an imprest funds cashier by Ms. Clement's secretary who did not give the funds to Ms. Clement but, upon learning that the first trip had been cancelled, retained them in her own desk drawer for use in connection with the second trip. The secretary also obtained the travel advance of \$150 for the second trip. She states that she did not deliver these funds to Ms. Clement because she learned within 30 minutes of obtaining the second travel advance, that the second trip had also been cancelled. She states that she returned

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all the advanced funds to the imprest funds cashier, but failed to obtain a receipt for this transaction.

The records of the imprest funds cashier do not support the statements of Ms. Clement's secretary. The records do not show receipt of the \$230 allegedly returned by her, nor do they show an overage in the cashier's account for January 18, 1978. Moreover, HUD procedures provide that advances returned due to cancellation of trips are not to be repaid to the issuing imprest funds cashier, rather, the funds are to be repaid to the Accounting Office. HUD Handbook 1952.2. Chg. 1, Cl. 4, para. 8.

Ms. Clement questions her liability for the missing funds as she never was in possession of the money. Although her secretary received the funds for her, Ms. Clement maintains that her secretary was not her agent, but rather an agent of the Federal Government. Thus, in reliance upon the law of agency, Ms. Clement states that she cannot be held responsible for funds obtained by her secretary which she never actually received.

The file does not contain a direct statement by Ms. Clement that she asked her secretary to pick up the cash travel advances for her although she does assert in a statement of May 20, 1980, that she had not "executed a written authorization or power of attorney authorizing the travel office to relinquish the aforementioned amounts to" her secretary. In fact after Ms. Clement signed the two requests for advance of funds (SF 1038) they did come into the possession of her secretary and were presented to the Imprest Fund Cashier by the secretary who signed the log acknowledging receipt of the cash. Further, on the second SF 1038, by which Ms. Clement requested an advance of \$150, it is specifically noted that a prior advance of \$80 was outstanding and that Ms. Clement would have a total of \$230 in advances. Since Ms. Clement does not assert that her secretary obtained the travel advance requests from her without her permission or knowledge or that she obtained the funds without her knowledge or permission we must assume that the secretary was acting at the request of Ms. Clement.

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This Office has always considered travel advances under 5 U.S.C. 5705 to be in the nature of a loan and thus the personal funds of the individual to whom they are advanced. 54 Comp. Gen. 190 (1974) and Joel S. Posner, B-197927, September 12, 1980. Consistent with the cited decisions, HUD procedures provide that employees are responsible for funds issued pursuant to a Form SF 1038 (Application and Account for Advance Funds) upon which their authorized signature appears.

Here, the funds in question were disbursed on the authority of two Forms SF 1038 signed by Ms. Clement and obtained for her use incident to official travel. Although Ms. Clement may never have obtained physical possession of the travel advances, she is nevertheless responsible for the funds advanced. She may not be relieved of that liability by virtue of the fact that the funds were obtained on her behalf by another Government employee. For the purpose of obtaining the advance, Ms. Clement's secretary acted as her representative or agent under HUD procedures which permit the applicant's "representative" to obtain travel advance funds on his or her behalf. HUD Handbook 1925.2, Chg. 1, Cl. 4, para. 8.

While it is Ms. Clement's contention that the funds were returned to the Government, this contention is contradicted by the absence of any record of a refund transaction or overage in the cashier's account. As we noted in B-179935, November 19, 1973, where an employee was held responsible for a travel advance he claimed he never received, our Office is obliged to accept the official records as controlling in the absence of clear and convincing evidence that they are inaccurate.

Therefore, since Ms. Clement cannot show that the funds were spent for travel or otherwise returned to the Government she may not be refunded the \$230 withheld by the certifying officer in liquidation of her indebtedness.



Acting Comptroller General
of the United States