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GAO

United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-201840

April 6, 1981

Mr. William E. Foley *AGC 00439*
Director, Administrative Office
of the United States Courts

Dear Mr. Foley:

[Request for Relief From Liability]

This is in response to your letter of January 14, 1981, requesting that the El Paso divisional office of the United States District Court for the Western District of Texas be relieved of liability for a loss or theft of \$1,000.

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The record indicates that between October 1 and October 7, 1976, the divisional office incurred a \$1,000 shortage that was discovered by court personnel preparing the bank deposit for October 8, 1976. The monetary receipts for the week in question totaled \$14,915.35, whereas the actual monies on hand amounted to only \$13,915.35, creating the \$1,000 variance. The El Paso divisional office made deposits once a week, and all deputy clerks in that office received collections and had access to the cash drawer, which was left unlocked. An agent for the Federal Bureau of Investigation investigated the loss and interviewed a deputy clerk and a financial clerk in the El Paso office, and a potential suspect who denied taking the money and consented to a polygraph test. The investigating agent advised that this individual "did not practice deception in response to questions concerning the missing \$1,000." The FBI was "unable to designate a suspect" and completed its investigation on April 20, 1977.

You further state that your Division of Financial Management has concluded that responsibility for the loss cannot be placed upon any one individual because all deputy clerks had access to the money; the loss was not discovered until after a week's receipts had been accumulated; money collected was kept in an unlocked drawer; and proper internal controls were lacking. (A comprehensive internal control system has since been installed.) Your request for relief is based upon Comptroller General Decision B-191440, amended May 25, 1979. While the facts in this case do appear quite similar, there is no reason to consider your request further for the reasons explained below.



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An accountable officer may be relieved of liability for a physical loss of funds, pursuant to 31 U.S.C. § 82a-1. To this end, the GAO Policy and Procedures Manual calls for prompt reports of financial irregularities, both to avoid the running of the 3-year statute of limitations, 31 U.S.C. § 82i (1976), and to determine more quickly whether relief should be granted or denied. Accordingly, we require a report to us of irregularities no later than 2 years after the date the accounts are made available for audit or immediately if there is evidence of fraud or criminality. 7 GAO Policy and Procedures Manual § 28.14; B-161457, August 1, 1969.

Our authority to settle the accounts of an accountable officer, and hence to grant or deny relief, is limited to the 3-year period provided by 31 U.S.C. § 82i. We no longer require that accounts of accountable officers be physically transmitted to this Office. Rather, they are retained by the various agencies where they are subject to audit and settlement. Accordingly, we consider the date of receipt by the agency of substantially complete accounts as the point from which the 3-year period established by 31 U.S.C. § 82i begins to run. B-181466, July 10, 1974; B-189613, June 8, 1978. 3 GAO Policy and Procedures Manual § 69.1 fn 1 (1978).

Your office advises us that the deposit of monies collected substantially completes the accounts (via phone conversation, Mr. Samuel Merwitz, February 12, 1981). In this case, the deposit was made October 8, 1976. Since the statute of limitations runs for a 3-year period from that date, the account must be regarded as settled. There is thus no occasion to consider a relief request with regard to this account. Even if the United States had a right of recovery against the accountable officer, it has been extinguished because the irregularity was not reported in a timely manner as required.

Sincerely yours,

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel