

GAO  
United States  
General Accounting Office  
Washington, D.C. 20545

Office of the General Counsel

B-243685

July 1, 1991

Mr. Melvin L. Hines  
Deputy Associate Comptroller  
Financial Operations  
Department of State  
Washington, D.C. 20520

Dear Mr. Dudley:

By letter of April 4, 1991, you asked that we relieve Mr. Farouk Hibri, Class "B" Cashier, in the United States Embassy in Beirut, of liability for a shortage of \$1,000.00 due to his acceptance of ten counterfeit \$100 bills. For the following reasons, we are unable to grant relief.

In B-239724, Oct. 11, 1990, we granted relief to Mr. Harris Evangelides, Principal Class "B" Cashier, in the United States Embassy in Nicosia, Cyprus of liability for the shortage. However, we could not authorize you to charge the proper appropriation with the loss since Mr. Hibri is potentially liable for the loss.

The record indicates that Mr. Hibri accepted the ten counterfeit \$100.00 bills at the U.S. Embassy in Beirut during the spring or summer of 1989. The origin of the counterfeit bills is unknown.<sup>1/</sup> However, a telex from the Embassy, Nicosia, to the State Department, Washington, D.C., indicates that the irregularity occurred in Beirut. As such, Mr. Hibri

1/ As we stated in our earlier letter:

"The record reflects that there are several sources from which the U.S. Embassy cashier in Beirut receives U.S. currency. The majority of the Embassy's U.S. currency is received from the American Express Bank, Beirut, to cover payroll and cash payment requirements. U.S. dollars are also received for accommodation exchanges from American and Foreign Service Nationals. Moreover, in March/April of 1989, when American Express Bank, Beirut, did not have enough U.S. dollars for the Embassy, \$414,000, all in \$100 bills, was brought into Beirut by a State Department officer. Those bills were obtained from the Bank of Cyprus." B-239724, Oct. 11, 1990.

is liable for the loss if he did not act with due care in checking the authenticity of the currency.

Under 31 U.S.C. § 3527, our office is authorized to relieve accountable officers of liability for a physical loss of government funds if we concur in the determination by the head of an agency that: (a) the loss occurred while the officer or agency was acting in the discharge of his or her official duties and (b) there was no fault or negligence on the part of the cashier which contributed to the loss. We have held that a deficiency in an accountable officer's account resulting from the acceptance of counterfeit currency constitutes a physical loss. See B-101301, July 19, 1951. Although the acceptance of a counterfeit note may not amount to negligence if the counterfeit is not readily detectable (B-140836, Oct. 3, 1960; B-191891, June 16, 1980), if the quality of the counterfeit is such that a prudent person in the same situation would question the authenticity of the bill, relief should not be granted. B-163627-O.M., Mar. 11, 1968; B-155287, Sept. 5, 1967.

Here, the record indicates that the Embassy in Beirut possessed a counterfeit detection machine. Your letter states "Mr. Hibri was asked if he used the counterfeit currency machine on the bills which were later found to be counterfeit." He did not specifically answer the question. He stated that he verified all U.S. currency bills to be correct and not counterfeited and did not deviate from standard procedure in verifying the bills.

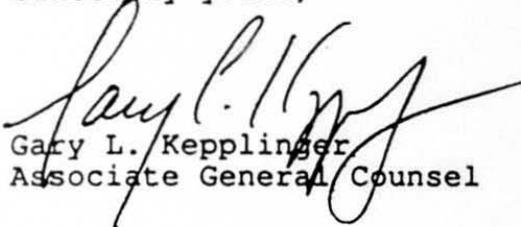
The submission states that the Committee of Inquiry into Fiscal Irregularities was unable to obtain specific records to determine if a counterfeit detection machine existed or, if one did exist, whether Mr. Hibri used it to verify the bills in question. Nevertheless, since the bills were not readily detectable as counterfeit, the Committee concluded there was no evidence which would indicate negligence on the part of Mr. Hibri and that he should be granted relief.

An accountable officer's liability is strict and arises automatically at the time of the loss or shortage. The mere fact that a loss or shortage occurs gives rise to a presumption of negligence on the part of the accountable officer. The presumption may be rebutted by evidence to the contrary, but it is the accountable officer's burden to produce the evidence. It is not enough to rely on the absence of implicating evidence. An administrative determination that there is no evidence of fault or negligence will not adequately rebut the presumption of negligence. The accountable officer must come forward with affirmative evidence that he exercised the requisite degree of care. B-238898, Apr. 1, 1991.

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We understand that it may have been difficult, given the volatile situation in the Middle East, to obtain information concerning this case from the U.S. Embassy in Beirut. Nevertheless, if a counterfeit detection machine was available to Mr. Hibri when he accepted the bills, we would view an unjustified failure to use such a machine as negligence, just as we would view a failure to check a bill against a posted list of serial numbers of counterfeit bills. See B-155287, Sept. 4, 1967. As such, we cannot grant relief unless sufficient evidence is presented that Mr. Hibri did not have access to such a machine when he accepted the counterfeit bills.

Since the record does not contain evidence adequate to support the agency's determination that the loss occurred without fault or negligence by Mr. Hibri and Mr. Hibri has not presented sufficient affirmative evidence that he exercised the requisite degree of care, we must deny relief.

Sincerely yours,



Gary L. Kepplinger  
Associate General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT

Accountable Officers  
Cashiers  
Relief  
Physical losses  
Counterfeit bills