

UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

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GENERAL COUNSEL
7-185486

Mr. William E. Foley
Deputy Director
Administrative Office of the
United States Courts
Supreme Court Building
Washington, D.C. 20544

Dear Mr. Foley:

This is in response to your request of December 1, 1975, that the Clerk of Court for the Eastern District of Virginia, Mr. Farley Powers, Jr., be relieved from liability of a \$509.25 shortage in his account.

The information submitted to this Office indicates that on March 18, 1975, personnel of the Clerk's Office in Richmond, Virginia, discovered that all checks and cash collected by that office on March 26 and 27, and some of the collections received on March 28, had been taken from the office's walk-in vault. The office's carbon copies of the related receipts issued for the collections were also missing.

On April 3, 1975, most of the stolen checks and office copies of receipts were recovered in a grocery store bag in Richmond, Virginia. The final amount of the known loss has been determined as \$509.25, consisting entirely of cash collected in four collections.

The Federal Bureau of Investigation conducted an investigation into the theft, but because of insufficient evidence, no charges were brought. The primary suspect was an employee of the Clerk's Office whose employment was subsequently terminated for withholding material information from her employment application. The investigation, however, developed no evidence which would implicate the Clerk, Mr. Powers, or any of his other employees in the theft. In order to provide better control over office collections in the future, Mr. Powers had issued instructions limiting access to the walk-in vault to three employees. There was, however, no evidence of negligence on the part of any of the employees who did have access to the

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wait which could be said to have contributed to the loss.

31 U.S.C. § 82a-1 (1970), under which relief has been requested, provides in pertinent part as follows:

"The General Accounting Office is authorized, after consideration of the pertinent findings and if in concurrence with the determinations and recommendations of the head of the department or independent establishment concerned, to relieve and dis-bursing or other accountable officer or agent or former disbursing or other accountable officer or agent of any such department or independent establishment of the Government charged with responsibility on account of physical loss or deficiency of Government funds, vouchers, records, checks, securities, or papers in his charge. . . if the head of the department or independent establishment determines (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. . . ." (Emphasis supplied).

Based upon the circumstances surrounding the theft and investigation findings, it was administratively determined pursuant to 31 U.S.C. § 82a-1 that the loss in question occurred while Mr. Powers was acting in the discharge of his official duties and without fault or negligence on his part. We concur in this determination.

Accordingly, relief is granted to Mr. W. Farley Powers, Jr. under the provisions of 31 U.S.C. § 82a-1 and appropriation 1060926, Travel and Miscellaneous Expenses, United States Courts, should be charged with the shortage.

A copy of this decision is being sent to the Chief Disbursing Officer, Department of the Treasury.

Sincerely yours,

PAUL G. DEMBLING

Paul G. Dembling
General Counsel