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United States Government Accountability Office
Washington, DC 20548

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September 2, 20005

Sheila O. Conley
Chair, Committee of Inquiry
into Fiscal Irregularities
United States Department of State
Washington, D.C. 20520

Subject: *Relief of Accountable Officers Emery Banguid & Frank Forgione
U.S. Embassy, Brazzaville, Republic of the Congo*

Dear Ms. Conley:

This responds to your letter of June 27, 2005, requesting that we relieve Mr. Emery Banguid and Mr. Frank Forgione of liability for the loss in 1997 of \$21,403.04 from the U.S. Embassy in Brazzaville, Republic of the Congo. For the following reasons, we grant relief.

BACKGROUND

On June 5, 1997, as civil war broke out in the Republic of the Congo, Foreign Service National employees were ordered to leave the U.S. Embassy amid sporadic shooting in the capital, Brazzaville. Among those ordered to leave was alternate Class B Cashier Emery Banguid. (The regular embassy cashier had been on leave and had transferred his functions to Mr. Banguid as an alternate.) Upon Mr. Banguid's departure, the cashier's safe was locked and only routine documents that were being routed for signature or comment were left out of the safe. According to embassy staff, those documents included invoices, receipts, vouchers for payments, and similar paperwork of the type that would have been left out at the end of a routine business day. Letter from Sheila O. Conley, Chair, Committee of Inquiry into Fiscal Irregularities, Department of State, to Anthony H. Gamboa, General Counsel, GAO, June 27, 2005 (Conley letter). At the time of Mr. Banguid's departure, U.S. citizen employees were still present at the embassy.

Amid escalating violence, the entire embassy staff was evacuated on June 11, 1997. The Deputy Chief of Mission (DCM) opened the alternate cashier's safe, verified the cash on hand, and removed items from the safe that required action by the financial service center (FSC) in Paris to bring to Kinshasa for processing. Due to lack of space and time, the DCM could not take all of the documents that were in the safe and did not locate interim receipts for the four embassy sub-cashiers. Temporary

Duty (TDY) Administrative Officer Frank Forgione accepted the cash and documentation from the DCM and was evacuated to Kinshasa. Mr. Forgione continued to draw against the cash on hand to cover payroll and operating expenses until August 1, 1997, when he transferred the remaining cash to Kinshasa's Class B cashier.

After the evacuation, the embassy compound was vandalized and the safe in the chancery was broken into, resulting in missing documentation, including some cash. Because not all of the missing documentation could be recovered, subsequent attempts to reconcile the cash accounts of the alternate cashier resulted in a shortage.

During clean-up operations at the chancery in March 1998, embassy staff recovered partial cashier files of items on-hand and in-transit, and four cashier replenishment checks, which were cancelled and sent to FSC Paris. According to the Committee of Inquiry into Fiscal Irregularities (Committee), embassy staff undertook further efforts to recover missing documentation from the June 1997 evacuation, including: (1) locating a missing payroll electronic funds transfer on March 24, 2000, at a local Brazzaville bank; (2) locating two cash boxes in Kinshasa belonging to a travel sub-cashier and to an administrative assistant, which contained cash and receipts; and, (3) in July 2000, Mr. Banguid located further documentation covering collections, accommodation exchange, and interim advances.

In November 2001, after FSC Paris had completed processing all of the newly found documentation, there was still no documentation for CFA Francs 8,085,703 (US \$13,925.19) and \$7,572.85. The deficiency totals \$21,403.04. Because the shortage of funds was determined to have occurred sometime during the evacuation, both Messrs. Banguid and Forgione were considered accountable officers responsible for the deficiency. The Committee found that although embassy personnel were not able to account for all of the missing funds, there was no fault or negligence on the part of Alternate Cashier Emery Banguid or TDY Administrative Officer Frank Forgione. The Committee also found no evidence of an illegal or incorrect payment.

DISCUSSION

Under 31 U.S.C. § 3527, our Office may relieve accountable officers of responsibility for a physical loss of funds if we concur in the determination by the agency that: (a) the loss occurred while the accountable officer was carrying out official duties, and (b) the loss was not the result of fault or negligence on the part of the accountable officer. Once this determination is made, we are authorized to grant relief. *See* B-300677, June 19, 2003; B-229753, Dec. 30, 1987.

The presumption that accountable officers have been negligent when a physical loss of funds for which they are responsible occurs can be rebutted by evidence to the contrary. B-230796, Apr. 8, 1988. We have previously granted relief to accountable officers when the evidence is clear that an unforeseen or emergency event has occurred beyond the control of the accountable officer. For example, the loss of

funds has been determined to have occurred without fault or negligence on the part of the accountable officer, and relief has been granted where the loss was due to the September 11, 2001, terrorist attack on the World Trade Center (B-300677, June 19, 2003); to a fire (B-212515, Dec. 21, 1983); to an attack on or escalating violence involving an embassy or mission overseas (B-249372, Aug. 13, 1992; B-229753, Dec. 30, 1987; B-203726, July 10, 1981; B-194666, Aug. 6, 1979); to theft (B-265856, Nov. 9, 1995; B-261261, Aug. 31, 1995; B-195435, Sept. 12, 1979); and to a prison riot (B-232252, Jan. 5, 1989; B-230796, Apr. 8, 1988).

In this case, the Committee of Inquiry into Fiscal Irregularities at the Department of State has made the requisite determination that the loss occurred while Messrs. Banguid and Forgione were acting in the discharge of their official duties as alternate cashier and TDY administrative officer, respectively, and that it was caused by circumstances beyond their control and not attributable to fault or negligence on their part. Since the loss of funds resulted from the emergency evacuation and subsequent vandalism of the U.S. Embassy in Brazzaville, we agree that the loss was not the result of fault or negligence on the part of either Mr. Banguid or Mr. Forgione.

We therefore grant relief to Mr. Banguid and Mr. Forgione in the amount of \$21,403.04. The loss may be charged to the proper appropriation in accordance with 31 U.S.C. § 3527.

Sincerely yours,

/signed/

Susan A. Poling
Managing Associate General Counsel

cc: Mr. Emery Banguid
Mr. Frank Forgione

DIGEST

Relief is granted to a Class B Cashier and an Administrative Officer for the loss of \$21,403.04 from the U.S. Embassy in Brazzaville, Republic of the Congo. The loss resulted from the emergency evacuation and subsequent looting of the embassy during a local civil war, and GAO concurs with the Department of State that the loss occurred without fault or negligence on the part of either the cashier or the administrative officer.