



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

B-177255

JAN 3 1973

H&HS (Air Freight)
FPO Seattle, Washington 98764

Dear Sergeant :

Further reference is made to your letter dated September 25, 1972, in effect requesting review of the action of our Transportation and Claims Division by letter dated September 19, 1972, in which you were advised that in the absence of clear and satisfactory evidence of validity and nonpayment of travel allowances incident to temporary duty performed at Tainan, Taiwan, during the period from October 5 to December 23, 1957, while a member of the United States Air Force your claim may not be considered.

Our records show that by letter dated April 12, 1971, you made claim to the Air Force Accounting and Finance Center, Denver, Colorado, for travel allowances in connection with temporary duty performed under Special Orders No. 864, dated October 3, 1958, which directed you to proceed on or about October 3, 1958, to Tachikawa Air Base Japan and Tainan, Taiwan, on temporary duty for approximately 30 days and return to your station. Travel was authorized by military aircraft, Government vehicle and/or commercial facilities and you were directed to have in your possession field equipment and/or sleeping bag. You furnished a statement certifying that to the best of your knowledge you have never been reimbursed for your temporary duty trip to Tainan, Taiwan, in October 1958.

Your claim was first received in the General Accounting Office on June 16, 1972. A report was requested from the Air Force which disclosed that travel vouchers for the period of your travel have been destroyed and are not available for review. It is further reported that pay records are destroyed after 10 years and are no longer available to verify whether the travel payment was posted to the record of travel payments.

In your letter of September 25, 1972, you contend that clear and satisfactory evidence establishing your claim has been furnished. However, no record is now available to establish that you were not currently paid all the travel allowances to which you were entitled. You furnished no new evidence and a claim based on the mere denial of receipt of amounts due made long after the

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claim accrued and payment is presumed to have been received is of too doubtful legality to support the payment from public funds of the amounts claimed.

The accounting officers of the Government have consistently refused to allow a stale claim whether or not the claimant was aware of his entitlement from the date of its accrual when such claim was based solely on statements by the claimant which cannot be verified or corroborated by Government records which have been destroyed in accordance with law. 4 Comp. Gen. 805 (1925). Where a claimant has slept on his rights for a long period of time the presumption arises that his claim never was valid or that it has already been paid. The burden does not rest upon this Office to refute claims for settlement, but rather it is on claimants to furnish evidence clearly and satisfactorily proving the validity and nonpayment of a claim. 18 Comp. Gen. 980 (1939) 31 Comp. Gen. 340 (1952).

Furthermore, it has long been the rule that the Government accounting and administrative officers should reject or disallow all claims as to which they believe there may be a substantial defense in law or as to the validity of which they are in doubt and leave the claimants to pursue their remedy in the courts. See Longwill v. United States, 17 Ct. Cl. 288, 291 (1881) and Charles v. United States, 19 Ct. Cl. 316, 319 (1884). However, your attention is invited to 28 U.S.C. 2501 which provides that every claim of which the Court of Claims has jurisdiction shall be barred unless the petition thereon is filed within 6 years after such claim first accrued.

In view of the foregoing, the action taken by our Transportation and Claims Division is sustained.

Very truly yours,

~~W. K. KELLY~~

Deputy] Comptroller General
of the United States