DECISION

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

FILE: B-221033 **DATE:** December 17, 1985

MATTER OF: Richard Luna

DIGEST:

> A former member of the Marine Corps claims payment of a military Basic Allowance for Quarters for the period from January 1, 1974, to March 4, 1975, the date of his separation from active duty. His claim was first received in the General Accounting Office on November 7, 1985. His claim may not be considered, since his claim accrued no later than the date of his separation from service and the Barring Act, 31 U.S.C. § 3702(b), bars consideration of claims received in the General Accounting Office more than 6 years after they have accrued.

Mr. Richard Luna claims a military Basic Allowance for Quarters for the time between January 1, 1974, and March 4, 1975, when he was serving on active duty with the United States Marine Corps.1/ We conclude that his claim is barred by the 6-year limitation period prescribed by statute for claims cognizable by our Office.

Background

Under the pay and allowances system applicable to members of the uniformed services, active duty service members who are not furnished with Government quarters adequate for themselves, and for their dependents if they have dependents, are entitled to a Basic Allowance for Quarters. As the name implies, the purpose of this allowance is to reimburse service members for personal expenses incurred in acquiring non-Government housing when

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1/ This action is in response to a letter dated November 4, 1985, with enclosures, from the Commanding Officer of the Marine Corps Finance Center, who forwarded Mr. Luna's claim with a request for a decision.

rent-free Government living quarters are not furnished to them and their dependents.[2]

The records before us indicate that Mr. Luna enlisted in the Marine Corps on June 21, 1972, and that he served on active duty continuously thereafter until the time of his discharge on March 4, 1975. On a form dated September 16, 1974, he applied for a Basic Allowance for Quarters predicated on his mother's dependence upon him. He indicated that she was then residing in private living quarters in Austin, Texas, and he stated that she had been dependent upon him for more than one-half of her support since June 1, 1974. He claimed the allowance commencing on July 15, 1974, but later claimed entitlement retroactive to January 1, 1974. Marine Corps officials sent a letter to his mother requesting information about her income, and the nature and the date of the change in her financial circumstances which caused her to become dependent upon her son. She did not respond, and the concerned Marine Corps officials consequently did not approve payment of the allowance to him.

It appears that in 1984 Mr. Luna renewed his claim for the Basic Allowance for Quarters, and he then indicated to the Marine Corps that his mother had not responded to the letter of inquiry sent to her in 1974 because she had not understood it. Marine Corps officials then advised him that his claim could no longer be considered because of the Barring Act, since more than 6 years had elapsed from the time of his separation from active duty. Mr. Luna has apparently questioned the correctness of this advice, and the officials have referred the matter here for review.

Analysis and Conclusion

Subsection 3702(a) of title 31, United States Code, provides that except as otherwise provided by law the Comptroller General shall settle all claims against the United States Government. The Barring Act of October 9, 1940, as amended and now codified at subsection 3702(b), further provides, however, that any such claim must be received by the Comptroller General within 6 years from the

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2/ 37 U.S.C. § 403. See, generally, Gunnery Sergeant Victore E. McDonald, USMC, 60 Comp. Gen. 154, 156 (1981).

date it first accrued. Under that provision of law a claim not received in our Office within the 6-year period is barred, notwithstanding that it may have been filed with another Government agency at some earlier time.[3] We have no authority to waive any of the provisions of the Barring Act or to make any exceptions to the time limitations it imposes.[4]

In the present case, we find that Mr. Luna's claim for the military quarters allowance payments in question could have "accrued," or come into existence, no later than the date of his separation from active duty with the Marine Corps on March 4, 1975. We first received his claim on November 7, 1985, well over 6 years later. Hence, we are precluded by the Barring Act, 31 U.S.C. § 3702(b), from considering his claim, regardless of any circumstances that might explain or mitigate the lapse of time, or the claimant's delay in pursuing the matter.

Accordingly, payment may not issue on Mr. Luna's claim.

Milton J. Socolar

Acting Comptroller General
of the United States

3/ See, e.g., Jack C. Smith, et al., 63 Comp. Gen. 594, 596 (1984); and Frederick C. Welch, 62 Comp. Gen. 80, 83 (1982).

4/ Frederick C. Welch, supra, 62 Comp. Gen. at 83.