

DATE: July 24, 2000

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In Re:

Resource Protection

on behalf of

Carlyle Van Lines, Inc.

Claimant

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Claims Case No. 00071108

## CLAIMS APPEALS BOARD DECISION

### DIGEST

Under the Debt Collection Act, a government claim against a carrier for transit loss or damage it caused to a service member's shipment may be satisfied by means of administrative offset within 10 years of accrual of the claim.

### DECISION

Carlyle Van Lines, Inc. (Carlyle), through Resource Protection, appeals the June 29, 2000, Settlement Certificate of the Defense Office of Hearings and Appeals (DOHA) with respect to DOHA Claim No. 00061209. In the Settlement, DOHA disallowed Resource Protection's request for a refund of \$2,665.38, that the Air Force offset for transit loss and damage that Carlyle caused to a service member's household goods. [\(1\)](#)

### Background

The record indicates that Carlyle picked up the shipment on September 3, 1993, in Fayetteville, North Carolina, and delivered it to the member in Charleston, South Carolina on September 17, 1993. The shipper and Carlyle's agent noted loss and damage at delivery, and the member/Air Force dispatched notice of additional damage on November 18, 1993. The Air Force dispatched its subrogated claim to Carlyle on August 16, 1994, and later amended the claim. On November 14, 1994, a wing-level claims official advised Carlyle that 90 days had elapsed since his office forwarded its claim to Carlyle; he requested payment in the amount of \$2,665.38; and he advised Carlyle that if his office did not

receive Carlyle's check in that amount by December 24, 1994, he would forward the matter to Headquarters, Air Force for involuntary collection by administrative setoff. The record indicates that Carlyle did not respond any further at that time, and on February 1, 1995, Headquarters, Air Force approved the setoff. Due to administrative error, the setoff did not occur until November 15, 1999.

Resource Protection argues that an offset beyond 6 years violated 31 U.S.C. § 3716(b)(3), as it existed at the time of the incident.

### **Discussion**

The portion of the Debt Collection Act cited by Resource Protection cannot be interpreted in the way that Resource Protection interprets it. The statute did not state, as Resource Protection contends, that administrative offset is barred if the 6-year statute of limitations for bringing a civil action on a claim under 28 U.S.C. § 2415 has expired. The statute merely stated that before collecting a claim by administrative offset, the agency first had to prescribe regulations for offset based on the best interests of the United States; the likelihood for collecting a claim by offset, and the likelihood for collecting after civil action was barred. In 1993, the implementing regulations included 4 C.F.R. § 102.3(b)(3) (a part of the Federal Claims Collection Standards), which contemplated that under 31 U.S.C. § 3716 agencies could provide for the initiation of an administrative offset to collect a debt generally for up to 10 years after the government's right to collect the debt first accrued. The statute of limitations on civil actions does not necessarily apply to administrative offsets, and under the Debt Collection Act the government may utilize administrative offsets beyond the 6-year statute of limitations for civil actions, for up to 10 years after the debt accrued. *See American Airlines, Inc. v. Austin*, 75 F. 3d 1535, 1541 (Fed. Cir. 1996). *See also Commander James H. Baker, USN (Retired)*, B-193856.4 (June 19, 1992); *Northwest Airlines, Inc.*, B-210600 (Sept. 18, 1984); and *Cullen P. Keough*, 63 Comp. Gen. 462 (1984).

### **Conclusion**

We affirm the Settlement Certificate.

Signed: Michael D. Hipple

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Michael D. Hipple

Chairman, Claims Appeals Board

Signed: Christine M. Kopocis

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Christine M. Kopocis

Member, Claims Appeals Board

Signed: Jean E. Smallin

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Jean E. Smallin

Member, Claims Appeals Board

1. This matter involves Personal Property Government Bill of Lading (PPGBL) SP-504,425; Air Force Claim Charleston AFB 94-799; and Carlyle Claim No. 94-269.