

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2011-089

**XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX**

FINAL DECISION

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the application upon receipt of the applicant's completed application on February 2, 2011, and subsequently prepared the final decision as required by 33 CFR § 52.61(c).

This final decision, dated January 12, 2012, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST

The applicant asked the Board to correct his military record to show that he is not indebted to the government for over \$9,000.00 resulting from an alleged overpayment on travel claims that he submitted during a period of active duty.

The applicant is a reservist currently on the Coast Guard Reserve Retired List (RET-2). In 2003, the applicant was serving on inactive duty when he was activated under Title 10 of the United States Code for active duty from October 1, 2003 to August 30, 2005. Housing and messing were not available at the assigned active duty site, so the applicant was authorized approximately \$94.00 per day for quarters and mess. During his active duty period, the applicant lived in a hotel. His duties required him to travel on temporary duty (TDY) to various other locations. On his travel claims, he requested reimbursement for lodging while on TDY, in addition to lodging at his permanent work site. The applicant's orders did not authorize the use of his private vehicle (POV) in the performance of his TDY duties. The applicant filed claims for reimbursements at least monthly. The Coast Guard claims that the applicant was overpaid on his travel claims and that he is indebted to the government for over \$7,000.00. The applicant denies that he was overpaid or that he is indebted to the government.

BACKGROUND DISCUSSION

(The following discussion is taken from documents submitted by both the applicant and the Coast Guard in an effort to describe how events unfolded).

At the end of October 2003, the applicant submitted his first claim for reimbursement. This claim included expenses for the month related to his permanent duty site and expenses related to two days of TDY for October 16th and 17th. According to the Coast Guard Finance Center schedule of payments, the applicant received reimbursement on this claim in the amount of \$3,047.50 on November 10, 2003 through check no. 746630.

During his active duty period, the applicant appears to have submitted claims for reimbursement on at least a monthly basis. However, on June 10, 2005, the Commanding Officer of the Personnel Service Center (PSC) notified the applicant that he had been overpaid in the amount of \$3,047.95.

On June 14, 2005, the payment authorizing official notified the applicant that he was also overpaid in the amount of \$2,289.25 for June 2004 travel. The applicant left active duty on August 30, 2005. He submitted his revised Leave and Earnings Statement (LES) for the period from August 1, 2005 to August 31, 2005, that reflected transactions as of September 22, 2005. The LES states that it was the applicant's final active duty LES. It showed a "TRAVEL ADV DEBT COLLECTION STATUS: TOTAL AMOUNT \$3,047.95" and "TRAVEL ADV DEBT COLLECTION STATUS: TOTAL AMOUNT \$2,879.25." The LES also shows that he sold 43 days of regular leave at a value of \$3,553.42.

On October 4, 2005, PSC notified the applicant that he was overpaid in the amount of \$5,345.16 "due to data received to start liquidating TRAVEL [ADVANCE] on 30 August 2005." The applicant stated he contacted PSC and was told that he had completed all travel forms and audits satisfactorily and that the problem arose because the documents were not processed and had not been routed up the chain of command.

On February 28, 2006, the applicant complained to his congressman about several matters including the alleged overpayment in the amount of \$5,345.16 that was noted on the back of his last LES. He stated that when he inquired about it, he was told that the travel claims and forms that he had submitted were not processed. After that, he resubmitted all the needed forms and the LES still showed that he owed \$5,345.16.

On April 27, 2006, the Coast Guard responded on an inquiry from the applicant's congressman about his debt situation. The letter stated the following:

[The applicant's] travel debt resulted from being paid twice for the same periods of travel in 2004. Since he received two payments for the same period, he must pay a remaining balance of \$2,297.21.

Upon release from active duty, [the applicant] sold 43.5 days of leave and received \$2,083.07 after taxes. This payment is documented in his August pay

statement. PSC collected \$582.04 from this sum as payment toward his outstanding travel debt.

On September 21, 2006, PSC wrote the applicant and told him that documentation showed that he owed \$2,297.21 for a travel advance. The applicant was told that he could repay this amount in one lump sum or in monthly installments. The applicant was also told that he owed \$223.00 that was advanced to him to cover his SGLI premiums.

On October 5, 2006, the applicant wrote to his congressman stating that after resubmitting documentation that had not been processed, he thought the overpayment issues had been resolved because he was told that all was okay and that he should not owe the money. He stated that he was told that the \$2,297.21 overpayment was for a travel advance. The applicant stated that he never received any advances because he had a government credit card and did not need a travel advance. He stated that the Coast Guard did not provide him with any documentation showing that he was overpaid.

On November 3, 2006, the Chief of the Operations Division, PSC sent the applicant a letter stating that as a result of his congressman's inquiry, it had performed a complete audit of all processed travel claims associated with the applicant's recall to active duty. The letter informed the applicant of the following:

The first step in conducting this audit was determining the exact amount of money electronically deposited into your account for each travel period. The second step was to determine your actual allowed entitlements for each travel period. The third step was to determine the amount of money that had been applied to the reported overpayment. The results of this extensive audit revealed that your travel overpayment associated with your recall is \$6,650.45.

[E]ach of your individual recall claims was consolidated into one overarching claim for each fiscal year. It was discovered during this extensive review that you performed several concurrent temporary duty trips away from your recall unit where you were paid per-diem at the TDY site (where you were physically located), and your recall site. Although there is a provision allowing dual lodging payments, there is no provision for the dual payment of per-diem entitlements for the same period.

During the audit of these concurrent TDY trips, several adjustments were required to correct the over and under payments. This resulted in a net payment due you of \$133.16. Since there is no mechanism to apply these funds to the above debt, these funds will be electronically deposited into your account.

Also, there were periods where you were in a leave status while recalled, which were not reflected in your travel claim submissions. A member is not entitled to per-diem while in an authorized leave status. These leave periods were documented on your leave and earnings statements.

The complete audit results are enclosed, with substantiating documentation, for your review. If additional travel vouchers with supporting documentation are received, they will be processed and may potentially reduce the overpayment amount.

On November 7, 2006, the Supervisor, Entitlements and Debts, PSC sent the applicant a letter stating that he was overpaid by \$2,520.21. Enclosure (1) to the letter stated that the source of the indebtedness was as follows:

1. Documentation received from the USCG Finance Center indicates you were paid TRAVEL ADVs of \$3,047.95 and \$2,879.25 that were not settled prior to your change in reserve status. Upon your change in reserve status, you still owed \$2,297.21.
2. Your LES shows that you owe \$223.00 for [SGLI]. You were advanced SGLI at the monthly rate of \$37.00 for February through June 2006, \$38.00 for July 2006 until administratively stopped August 1, 2006 for nonpayment of premiums per Public Law 104-106.

On November 8, 2006, the applicant again complained to his congressman that the Coast Guard stated that he owed over \$6,000.00, and that he did not understand how he could owe this amount.

On December 21, 2006, the Coast Guard responded to a letter from the applicant's congressman stating that the Coast Guard had performed an audit of the applicant's travel expenses and payments and that based on that audit, the applicant was overpaid in the amount of \$6,650.45. The Coast Guard assigned CWO A to work with the applicant to answer questions, to resolve misunderstandings, and to assist the applicant with obtaining additional documentation related to the alleged payments. (The applicant submitted emails showing that he worked with CWO A but the matter was not resolved.)

On May 10, 2007, PSC sent the applicant a notice that he owed the Coast Guard \$573.00.

On March 18, 2008, the applicant received notification that the debt in the amount of \$8,744.50 had been referred to a debt collection company. After notification that the debt was in collection, the applicant contacted PSC and again disputed the debt.

The applicant submitted documentation showing that on September 17, 2008, he sought a waiver of the debt.

The applicant also sought assistance from his senator. On July 10, 2009, the Coast Guard responded to the senator's inquiry. The Coast Guard stated that it had reviewed the applicant's travel entitlements and reimbursements for his entire period of active duty that resulted in a credit of \$172.00 from a leave adjustment. The Coast Guard also stated that a \$937.00 charge was debited to the applicant because he used his POV for some TDY travel, when his orders did not authorize POV but commercial transportation. The letter stated that with the credit and debit adjustments, the applicant's debt was \$5,584.46.

On September 16, 2009, the senator wrote the Coast Guard again on behalf of the applicant. The letter stated that the applicant disagreed with the agency's finding and denied that the debt was valid. The Senator also stated that regardless of the validity of the overpayment, the applicant was unable to repay the debt due to the severe financial hardship it would create for him and his family.

On October 9, 2009, the Coast Guard responded to the senator's letter. It attached documentation to the letter that allegedly showed the applicant's overpayment. The Coast Guard stated that the largest portion of the debt was generated by duplicate travel payments for the periods October 1-31, 2003 and June 1-30, 2004. The Coast Guard also stated that collection action would continue and the applicant would be charged interest at a rate of four percent. The letter stated that the applicant could make a lump sum payment, propose an acceptable repayment schedule, or propose a compromise settlement for consideration. The letter stated that the applicant's waiver request was denied, but he could submit another one with new/updated information that may better explain his personal circumstances. The documentation enclosed with the letter showed an overpayment on October 24, 2005 in the amount of \$2,878.50 minus a credit of \$582.04 for a total overpayment for this period of \$2,297.21. The documentation also showed that on January 13, 2006, the applicant received an erroneous payment in the amount of \$3,224.60 for the period from October 1, 2003 through October 31, 2003. According to the documentation, the applicant had already received reimbursement for this period in the amount of \$3,047.95 on November 10, 2003 and in the amount of \$63.25 on January 14, 2004 for a total of \$3,111.20. The documentation also showed that the applicant had been overpaid in the amount of \$1,001.51 on a TDY travel claim in which he used his unauthorized POV for travel, as well as other overpayments in the amount of \$573.98. The total overpayment came to \$7,372.96 which was reduced by two treasury collections in the amounts of \$843.42 and \$573.99 and credit for interest, penalties, fees, etc. in the amount of \$471.09. After certain credits, the Coast Guard stated that the applicant owed \$5,484.46.

On November 15, 2009, the applicant wrote to his senator stating that he still disagreed that the debt was valid. He stated that although the Coast Guard noted that his waiver request was denied, the request, he contended, was shredded because the Coast Guard had referred the matter to a collection agency. The applicant alleged that after his first congressional inquiry, the Coast Guard changed numbers and travel destinations on his travel claims without his knowledge. The applicant also stated that as a result of budget cuts, his civilian job with the public school system was scheduled for elimination in the near future.

On December 9, 2009, the applicant's senator wrote to the Coast Guard inquiring about the applicant's request for a waiver, a copy of which was enclosed with the letter.

On December 23, 2009, the Coast Guard responded to the senator's letter stating

We have reviewed the waiver in question and have determined that the waiver on file and the waiver [the applicant] claims was "shredded and not processed" was received by the Pay and Personnel Center, cover the same debt, and are one in the same. His initial waiver request was forwarded to Coast Guard Headquarters and was disapproved on February 18, 2009. As stated in my

letter of October 9, 2009, he may submit a new waiver request with any new/updated information that may better explain his personal circumstance.

[The applicant] received travel payments totaling \$70,971.73. His travel entitlements were \$63,598.77 resulting in a debt of \$7,372.96. We previously collected \$1,888.50 leaving a balance of \$5,484.46. This debt is being referred to the U.S. Department of Treasury for collection as required by law.

A note on a January 13, 2010 letter from the senator to the applicant stated that the applicant could not submit a new waiver request unless he provided new information.

On March 18, 2010, the applicant received a notice from the Department of the Treasury stating that he owed \$5,487.01 to the Department of Homeland Security—Coast Guard, but he was required to pay \$7,023.37, which included all then-applicable fees, interest, and penalties

The applicant concluded his statement with the following:

[The applicant] complied with orders. [The applicant] was authorized POV use and dual lodging. It was not until [the applicant] retired that issues arose. PSC seems to apply leave when not taken in order to recoup money rightfully paid to [the applicant]. The errors are due to PSC. The command, while present, supported [the applicant]. However, as time went by faces and names changed. Soon, the responses became rubber stamped and merely cursory based on errors already in the system. Meanwhile, [the applicant] did everything correctly.

Wherefore, [the applicant] requests this Board correct the many errors in his record that have resulted in the alleged debt.

VIEWS OF THE COAST GUARD

On June 2, 2011, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief in accordance with a memorandum from the Legal Advisor (LA) for the Pay and Personnel Center (PPC).

The LA acknowledged that reimbursements for the applicant's active duty service and his TDY duties resulted in a variety of pay errors and miscalculations, some caused by the applicant and some caused by the pay authorizing official at the applicant's then-unit and at PPC. The LA stated that contrary to the applicant's assertions, no one at any time has sought to attribute fault or inappropriate motive on the applicant's part. The LA stated that the applicant's receipt of duplicate payments created the indebtedness.

The LA stated that despite the confusion regarding the applicant's travel file, PPC has reviewed the data repeatedly and has concluded that the applicant was overpaid for travel. As a result of the overpayment, the applicant is responsible to the government for repayment. In this regard, the LA stated that the applicant was reimbursed twice for two specific months, October

2003 and June 2004. According to the LA, the applicant was also indebted to the government for reimbursement for use of his private vehicle when his orders did not authorize such use. The LA stated that in 2009, the Coast Guard conducted a complete audit of the applicant's active duty entitlements, the results of which were provided to the applicant and his congressional representatives. The LA stated that the applicant has neither refuted, nor otherwise provided any evidence that he did not receive payments, nor has he provided evidence supporting his proper receipt of duplicate payments. He simply argued that he was not overpaid. The LA stated that with regard to the private vehicle issue, the applicant only indicated that his POV use for travel was more advantageous to the government, but he never addressed the issue that POV travel was not authorized in his orders.

The LA stated that the applicant was authorized and paid for dual lodging. However, he was not authorized dual per diem while performing TDY away from his unit, nor was he authorized per diem while on leave. The LA stated that he was paid double per diem and per diem while on leave on several occasions, which were discovered and accounted for in the audit. The LA stated, however, that these discoveries were not the cause of the applicant's indebtedness to the government. The indebtedness resulted from the applicant's double payment for per-diem and lodging for the months of October 2003 and June 2004 and his overpayment for TDY travel to Yorktown, VA that occurred on November 24, 2003 to December 20, 2003.

The LA stated specifically that the applicant was paid \$3,047.95 on November 10, 2003, and \$3,224.60 on January 20, 2006, for his October 1 through October 31 travel. According to the 2009 audit, the correct payment for the period was \$3,074.88. The second overpayment was for the period June 1, 2004 to June 30, 2004. He was paid \$2,879.25 on July 12, 2004 for this period and \$2,878.50 on October 24, 2005 for the same period. The correct entitlement for this period was \$2,880.00.

With regard to the payment for his POV travel to Yorktown, the LA stated that the applicant was paid \$1,405.91 on January 21, 2004 but the 2009 audit determined that he was only entitled to \$404.40, resulting in a debt to the government of \$1,001.51. The LA stated that the PPC computes travel reimbursements based on official orders. The applicant's orders for the period in question did not authorize the use of privately owned conveyance. The LA stated that the applicant was initially improperly credited for the constructive cost of travel for using his personal vehicle instead of commercial transportation. The applicant argued that because it was cheaper to use his private vehicle than to take government procured transportation, he should be reimbursed. The LA stated that the applicant did not seek an amendment to his orders to authorize POV travel. The LA also stated that there was a period in which the government paid the applicant SGLI premiums and that cost was recouped from the applicant. According to the amounts discussed above, the Coast Guard calculated that the applicant is indebted to the government in the amount of \$7,372.96.

The Coast Guard's advisory opinion included the February 18, 2009 letter disapproving the applicant's request for a waiver of his alleged \$8,828.45 overpayment, despite his command's recommendation that the waiver be approved. In disapproving the waiver request, the Coast Guard stated the following:

2. Under 10 U.S.C. § 2774 [the Coast Guard] has the authority to waive collection of indebtedness of Coast Guard members to the United States government. However, waivers are generally only appropriate when the debt is the result of an overpayment due to administrative error, not the result of administrative shortfall. Neither failure to submit appropriate documentation to justify payment of travel entitlements, nor appropriate documentation being mishandled during the process, justifies a waiver. Waiver action under 10 U.S.C. § 2774 is a matter of grace dispensation and not a matter of right that arises solely by virtue of a debt to the government through unexpected events.

3. In the matter of [the applicant], the indebtedness stems primarily from problems with the travel claim process. Evidently there is a discrepancy between travel authorized and entitlements allowed as part of the travel claim liquidation. [The applicant] should be advised that he needs to work with his former command, SPO, and PSC to correct these issues. While we recognize that this places an extra burden on him, and we regret the inconvenience, there is no requirement under the law to grant a waiver wherein other appropriate administrative action will correct the problem. The waiver process cannot be used to correct difficulties with, or blind spots, in the travel claim process. Every effort must be made to account for U.S. government funds as accurately and completely as possible.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On September 2, 2011, the Board received the applicant's response to the views of the Coast Guard. The applicant denied that he was overpaid for his active duty lodging, meals, and travel. The applicant stated that if there was any overpayment, that would have been an error made by the approving official or the command. The applicant also argued that the collection of this alleged debt will result in undue hardship for him. The applicant further stated:

[The applicant's] travel file was voluminous and confusing because he was on active reserve status and authorized and often sent on TDY with dual lodging. This is not the fault of the servicemember . . . The servicemember was told to go perform a mission and acquire and maintain certain travel accommodations. These were approved both before and after the fact. [The applicant] was following orders and to penalize him after the fact for any of the confusion is an injustice and resulting in an undue hardship. [T]he result of the [advisory] opinion was to further complicate matters, penalize the wronged party . . . and rubberstamp the litany of overlapping errors of the command and the [Coast Guard] that include the after the fact recording [the applicant] as being on leave to account for the mistake of the agency.

The applicant stated that while double payments were provided to him, such payments were authorized and appropriate. With regard to the alleged overpayment for October 2003, the applicant stated the following:

The advisory opinion states that the applicant has not addressed this alleged overpayment. [T]hat is not correct . . . There were no alleged overpayment. The TONO 13043033R2006000 alleged an overpayment of \$3,224.60. This is the largest of the alleged overpayments. [The applicant] received only per diem allowances. He did not receive separate housing and subsistence allowances. He only received reimbursement for the month's hotel stay that he was told by his command to go and obtain. Importantly, it was standard course of operation over the entire two years he was activated to stay at this and another hotel as his main residence. The advisory opinion, respectfully, clearly does not understand the circumstances. If there was one night, how could this agency competently claim he received double payments of \$3,224.50. Had the unit simply put [the applicant] into the barracks as requested, this would not be haunting the servicemember who left his civilian job and home to serve his unit. Again [the applicant] did not take leave.

[T]he advisory opinion states that [the applicant] "neither refuted or otherwise provided any evidence that he did not receive payments nor has he provided evidence supporting his proper receipt of duplicate payments." [T]his statement makes one's head spin. It asserts that [the applicant] is to prove a negative, which is, of course, impossible. The correct response should have provided evidence that [the applicant] actually did commit some act that caused improper overpayment. Moreover, the opinion ignores the brief provided in support of [the applicant] detailing the facts that he stayed at a hotel, he was told to stay at the hotel, he was authorized dual lodging, and he submitted all travel vouchers and audits which were approved. Again to further pursue this alleged debt is an injustice and a result of the error of those involved in this process on behalf of the agency.

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Regarding the alleged overpayment in January 2004 of \$1,001.51, the Government Travel Rate was \$1,405.91. He only was reimbursed for \$998.01. The advisory opinion is misreading its own documents. He did not receive \$1,405.91. He asked for \$998.01. Had he not used his POV it would have cost the USCG more money. Again, the USCG is trying to penalize the servicemember for mistakes made at other levels of bureaucracy when he himself saved money for the USCG. . . .

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10 of the United States Code. The application was timely.

2. The applicant is a reservist who served a period of active duty from October 1, 2003 to August 30, 2005. During this period, he was entitled to lodging and daily per diem (meals, and incidentals) and when on TDY he was entitled to additional lodging but not additional per diem; nor was he entitled to per diem when on annual leave. The Coast Guard alleges that the applicant was overpaid on his travel claims for the period of active duty. The applicant denies that he was overpaid.

3. In June 2005, approximately two months prior to his separation from active duty, the Coast Guard notified the applicant that he had been overpaid in the amount of \$3,047.95 on his travel claims. The amount of this alleged overpayment would change numerous times after the first notification to an amount currently over \$7,000.00 after several audits.

4. The applicant has continually denied that he was overpaid and states that any alleged overpayment resulted from his entitlement to double lodging during his TDY periods or from errors made by Coast Guard pay personnel. To this the Coast Guard responded that the applicant was authorized and paid for dual lodging but he was not authorized double per diem. The Coast Guard stated in the advisory opinion that these minor discrepancies with regard to the per diem overpayment are not the cause of the applicant's debt. The indebtedness, according to the Coast Guard advisory opinion, resulted from the applicant's receipt of double reimbursements for the periods from October 1, 2003 to October 31, 2003 and June 1, 2004 to June 30, 2004, as well as an overpayment for a November 2003 TDY travel claim in which he was reimbursed for the unauthorized use his private vehicle.

5. As the Coast Guard stated in the advisory opinion, much confusion existed with regard to the amount and source of the alleged overpayment. Therefore, since the Coast Guard's advisory opinion has clarified the source and amount of the applicant's alleged overpayment, the Board will address only those amounts and sources of overpayment that are discussed in the advisory opinion. The earlier amounts and sources of overpayment are considered to be inaccurate and/or unreliable. In this regard, the Coast Guard submitted a schedule of the payments made to the applicant or electronically deposited into his bank account. The schedule of payments, as stated in the advisory opinion, shows payments for October 1, 2003 through October 30, 2003 in the amounts of \$3,047.95 on November, 10, 2003 and \$3,244.60 on January 20, 2006 and for June 1, 2004 to June 30, 2004 in the amounts of \$2,879.25 on July 12, 2004 and \$2,878.50 on October 24, 2005. The Coast Guard stated that the applicant was only entitled to \$3,074.88 for the October 2003 period and to \$2,880.00 for the June 2004 period.

6. According to the advisory opinion, the two major overpayments occurred after the applicant's discharge from active duty on August 30, 2005, which is different from the basis of the overpayment articulated by the Coast Guard in its earliest notifications to the applicant. In this regard, the schedule of payments submitted by the Coast Guard shows that the October 24, 2005, payment was through check number 377380 and the January 20, 2006, payment was through check number 3235556. Although the applicant denied that he was overpaid or that he received the two payments, he did not submit any evidence that the two payments were not deposited into his bank account. The applicant alleges that he cannot prove a negative. However, the Board finds that if these amounts were deposited into the applicant's then-bank account as the Coast Guard's documentation shows, the applicant should be able to obtain

documentation from his then-bank as to any reimbursements that were deposited during these periods.

7. Since the Coast Guard was apparently confused about the basis for the overpayment, admitted to calculation errors early on in the process, identified only recently the source of the major overpayment in its advisory opinion, and given the applicant's repeated denials that he received any overpayments, the Board will allow the applicant an opportunity to obtain documentation from his then-bank showing deposits into his account on or about the dates identified in Findings 5 and 6 above or to submit any other evidence that establishes whether he did or did not receive reimbursements in October 2005 and January 2006. If such payments were made to the applicant after his discharge from active duty on August 30, 2005, the applicant should explain why he believes he was entitled to the January 2006 and October 2005 payments, particularly since he stated that he was filing monthly claims. The Board will grant further reconsideration on this application if within 180 days from the date of this decision the applicant submits to the Board documentation from the bank involved showing deposits for November 2003, July 2004, October/November 2005 and January/February 2006 or any other evidence relevant to the issue of the October 2005 and January 2006 alleged overpayments.

8. To summarize, the Board should deny this application without prejudice and should grant further consideration, if within 180 days from the date of this decision, the applicant submits information from his then-bank showing the deposits that were made into his account for the months of November 2003, July 2004, October/November 2005, and January/February 2006 or any other evidence that establishes his receipt or non-receipt of the alleged payments. The Board will also consider at that time, the issue of whether the applicant was overpaid on his TDY claim and the issue of whether he should be granted a waiver of the debt.

9. The Board recommends that the Coast Guard cease debt collection activity until a final decision is issued in this case.

10. Accordingly, the Board will issue an order in accordance with finding 8 above.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of XXXXXXXXXXXXXXXXXXXX for correction of his military record is denied without prejudice. The Board shall further consider the application if within 180 days from the date of this decision, the applicant submits documentation from his bank showing deposits that were made into his account for the months of November 2003, July 2004, October and November 2005, and January and February 2006, and any other evidence that establishes his receipt or non-receipt of the January 20, 2006 and October 24, 2005 payments. The Board shall also consider whether the applicant was overpaid on his TDY claim for use of his private vehicle and whether he should be granted a waiver of the debt when it issues the final decision on further consideration.

Philip B. Busch

Reagan N. Clyne

Dorothy J. Ulmer