



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

LCC
Docket No. 9631-08
23 Mar 09

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy
Subj: REVIEW OF NAVAL RECORD ICO
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) NAVSUPSYSCMD memo 4050 Ser 53F/139 of 16 Dec 08
(3) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to entitle Petitioner to reimbursement of actual expenses and reimbursement of an incentive payment for a household goods move made prior to separation.

2. The Board, consisting of Messrs. George, Pfeiffer, and Zsalman, reviewed Petitioner's allegations of error and injustice on 23 March 2009 and, pursuant to its regulations, determined that the partial corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that Petitioner should be reimbursed only for the actual documented expenses (truck rental, gas and tolls supported by receipts) associated with the move but not for the incentive payment.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds

the existence of an injustice warranting the partial corrective action described below. Regarding the request for an incentive payment, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board noted that you moved in December 2006 before your separation orders were issued. On 10 December 2007, you applied for an advance operating allowance. The DD Form 2278 that you signed indicated that you intended to pick up a rental vehicle on 15 December 2007 and noted that you were responsible for obtaining certified weight tickets. Further, you were counseled to provide the weight tickets and a copy of the rental contract within 45 days of the move to liquidate the move and receive the incentive payment. You specifically agreed to "furnish two weight tickets within 45 days" and acknowledged that "if (I) fail to do so, (I) voluntarily consent to collection of all unearned advance operating allowances." (See attached DD Form 2278). In reliance on your promise, the government provided you with an advance of \$7336.00. There is no evidence that you took the requisite steps to liquidate your move in a timely manner. In October 2008, you applied to this Board seeking reimbursement of actual expenses and an incentive payment. However, you have still not provided weight tickets to substantiate the amount of property that you moved. Moreover, because of the delay in liquidating your move, that is attributable to you, prompt government inspection of your household goods (to verify the amount of property actually moved) is no longer possible. Accordingly, under these circumstances, the Board found that reimbursement of the incentive payment was not warranted and relief should be limited to actual documented expenses (truck rental, gas and tolls) associated with the move.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

- a. A statement was issued on 1 December 2006 to the Petitioner by the orders writing official indicating that orders would be issued.
- b. The Petitioner signed a statement agreeing to pay any cost of shipment and/or storage charges incurred if orders were canceled.
- c. Petitioner is authorized reimbursement of his actual documented expenses (truck rental, gas and tolls) for moving his HHG to WI. (NOTE: Petitioner will forward a copy of this letter, his retirement orders and all receipts he has pertaining to his move to

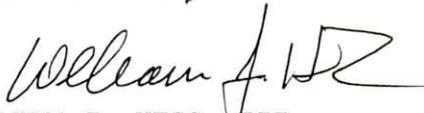
Business Support Department FISCN, HHG Audit Team Division, Code 302,
1968 Gilbert Street STE 600, Norfolk, VA 23511-3392.)

d. That so much of Petitioner's request as exceeds the foregoing
is denied.

e. A copy of this Report of Proceedings will be filed in
Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board
for Correction of Naval Records (32 Code of Federal Regulations,
Section 723.6(c)) it is certified that quorum was present at the
Board's review and deliberations, and that the foregoing is a true and
complete record of the Board's proceedings in the above entitled
matter.

ROBERT D. ZSALMAN
Recorder


WILLIAM J. HESS, III.
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e)
of the revised Procedures of the Board for Correction of Naval Records
(32 Code of Federal Regulations, Section 723.6(e)) and having assured
compliance with its provisions, it is hereby announced that the
foregoing corrective action, taken under the authority of reference
(a), has been approved by the Board on behalf of the Secretary of the
Navy.

24 March 2009


W. DEAN PFEIFFER
Executive Director