



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

MEH  
Docket No. 9961-08  
22 Dec 08

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) Navy Dental Corps memo  
(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 show an Active Duty Service Obligation (ADSO) of 3 years ending in June 2009.

2. The Board, consisting of Messrs. George, Pfeiffer, and Zsalman, reviewed Petitioner's allegations of error and injustice on 15 December 2008 and, pursuant to its regulations, determined that the 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. On 19 February 2004 Petitioner signed an Armed Forces Health Professions Scholarship Program (AFHPSP) contract, which

would allow him to pursue full-time studies in dentistry at a civilian educational institution accredited by the American Dental Association.

c. Paragraph 7a of his AFHSP contract specified that in return for 2 years of general civilian dental training he would incur a 3 year ADSO, to begin upon completion of the civilian training.

d. Paragraph 8c of the contract provided that if Petitioner was later selected for Advanced Education in General Dentistry (AEGD) (a military residency type program), he would "not discharge any portion of (his) ADSO during this training."

e. In August 2005, Petitioner indicated that he desired to be considered for participation in the AEGD. He was accepted for the program with training to commence after graduation from AFHSP in May 2006.

f. In early May 2006, prior to commencing AEGD training, Petitioner spoke and corresponded with his detailer, [REDACTED] regarding what his active duty obligation would be if he accepted the AEGD training. [REDACTED] erroneously advised Petitioner that his active duty obligation would be 3 years (from his commencing active duty) whether he accepted or declined the AEGD. In particular, [REDACTED] responded in an e-mail dated 4 May 2006 that "the AEGD program will not be a neutral year for you. Your active duty obligation is 3 years..AEGD or not! I strongly recommend you stay in the program and not decline." (A "neutral" year would not count towards fulfilling the 3 year active service obligation).

g. [REDACTED] advice was erroneous because it conflicted directly with paragraph 8c of Petitioner's AFHSP contract which stated that Petitioner would "not discharge any portion of (his) ADSO during" AEGD training. [REDACTED] gave this advice without reviewing/examining the specifics of Petitioner's AFHSP contract. Notably, before 2004 (the year in which when Petitioner signed his AFHSP contract) and indeed even during part of 2004, the "standard" AFHSP contract allowed training in the AEGD program to count towards fulfilling the 3 year active duty obligation. However, Petitioner's contract unambiguously prohibited crediting of the time in training in

the AEGD program towards fulfilling the 3 year active duty obligation.

h. In reliance on [REDACTED] advice, Petitioner accepted and attended the AEGD training and completed the training in August 2007. He is currently assigned as a Dental Officer at Camp Lejeune, NC. When recently preparing to submit his resignation papers he was informed his ADSO was recorded as August 2010 (i.e. 3 years after completion of the AEGD training per his AFHSP contract) vice June 2009 (i.e. 3 years after he accepted his active duty appointment per [REDACTED] advice and e-mail).

i. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has recommended the request be denied, noting that paragraph 8c of his AFHSP contact clearly states, in reference to AEGD residency, "I will not discharge any portion of my ADSO during this training. In effect, the AEGD shall be a neutral year with regard to any ADSO incurred." The opinion concluded his contract was a legal document that superseded both the conversation and e-mail between Petitioner and his detailer.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (2), the Board concludes that Petitioner's request warrants favorable action. The Board gave due consideration to the comments made in enclosure (2). However, because Petitioner was a newly commissioned dental officer the Board was of the opinion it was not unreasonable for Petitioner to accept and rely on the information given by his more experienced 06 detailer.

#### RECOMMENDATION:

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

a. His ADSO expires in June 2009, 3 years after he accepted his active duty appointment.

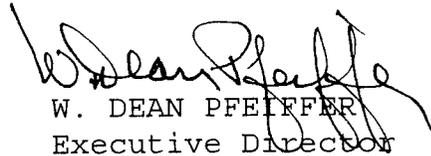
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings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



ROBERT D. ZSALMAN  
Recorder

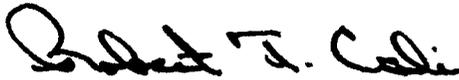
WILLIAM J. HESS, III  
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.



W. DEAN PFEIFFER  
Executive Director

Reviewed and Approved



12-31-08

**Robert T. Call**  
Assistant General Counsel  
(Manpower and Reserve Affairs)