



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

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Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED], USN RET  
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552  
(b) DODFMR, Vol 7B, Chp 43  
(c) DD Form 2656

Encl: (1) DD Form 149 w/attachments  
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to establish Survivor Benefit Plan (SBP) Spouse only coverage.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 15 December 2021 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, relevant portions of Petitioner's naval record, 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, found that, before applying to this Board, he exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board made the following findings:

a. In accordance with reference (b), SBP elections must be made prior to retired pay becoming payable and the election to participate in or decline SBP is irrevocable. Additionally, written spousal concurrence is required when the member elects to decline coverage or provide the spouse with less than the maximum SBP coverage available, to include electing child-only coverage. The signature of the spouse must be notarized. The requirement to have spouse's signature notarized provides certification that the spouse signed the form and acknowledged the election made on the form. Furthermore, if not all requirements for an election needing the spouse's concurrence have been satisfied prior to retirement, for whatever reason, full spouse costs and coverage will be implemented, regardless of any request by the member to do otherwise.

b. Reference (c), Part V – Spouse SBP Concurrence stipulates “Required ONLY when the member is married and elects either: (a) child only SBP coverage, (b) does not elect full spouse

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[REDACTED]

SBP coverage; or (c) declines SBP coverage. The date of the spouse's signature in Block 41c MUST NOT be before the date of the member's signature in Block 39c, or on or after the date of retirement listed in Part 1, Section I, Block 4. The spouse's signature MUST be notarized."

c. Petitioner married [REDACTED] on 26 March 1993 and divorced on 11 August 2003. Decree of Dissolution did not direct SBP Former Spouse coverage.

d. Petitioner married [REDACTED] on 22 April 2005.

e. On 16 November 2020, Petitioner signed DD Form 2656, Data for Payment of Retired decline SBP Spouse coverage; however, his spouse and notary witness signed the form on 13 November 2020.

f. Petitioner transferred to the Retired List effective 1 March 2021 and was automatically enrolled in SBP Spouse only coverage as a result of the abovementioned administrative error.

g. On 1 April 2021, Navy Personnel Command (NPC) SBP Program Manager received an Automatic Enrollment Correction (AEC) Affidavit from Petitioner requesting to decline coverage.

h. On 3 April 2021, NPC SBP Program Manager forwarded Petitioner's AEC Affidavit to Defense Finance and Accounting Service (DFAS).

i. On 29 April 2021, DFAS updated Petitioner's election to declined SBP coverage and refunded SBP premiums.

j. On 9 June 2021, Petitioner requested assistance from NPC to reestablish SBP Spouse coverage based on improper training on SBP coverage before retirement; NPC SBP Program Manager redirected Petitioner to the Board.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to reflect his and spouse's desire to elect SPB Spouse only coverage, based on full gross retired pay level of coverage. Although the proper administrative requirements were not completed, the Board felt that under these circumstances, relief is warranted.

## RECOMMENDATION

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

Petitioner elected SBP Spouse only coverage naming [REDACTED] as beneficiary, based on full gross pay level of coverage prior to transferring to the Retired List effective 1 March 2021. All previous elections are void.

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[REDACTED]

Note: No waiver of unpaid premiums will be granted.

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

4. It is certified that a 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.

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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

1/14/2022

[REDACTED]  
Deputy Director  
[REDACTED]