

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

> Docket No. 3801-22 Ref: Signature Date



Dear

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 23 March 2023. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

You requested to have the Individual Ready Reserve (IRR) transfer transaction and bonus indebtedness rescinded from your record, and a refund of the recouped reenlistment bonus. The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, to include your assertions. However, the Board concluded that in accordance with Marine Corps Order 7220R.38C, recoupment of the reenlistment bonus would occur at a prorated amount when a Marine voluntarily transfers to the IRR.

A review of your record indicates you entered active duty on 28 January 1997 and honorably discharged on 22 December 2004. On 3 December 2007, you enlisted in the Marine Corps Reserve for a term of 3 years and signed Statement of Understanding for the Selected Marine Corps Reserve Enlisted Affiliation Bonus (SMCR EAB). By signing the SMCR EAB, you acknowledged that transfer to the IRR is considered a breach of your obligation and the incentive would be recouped at a prorated amount. Your NAVMC 118(3), Chronological Record reflects that you transferred from (1997) to the IRR on 9 June 2008. Your leave and earning statement dated 29 June 2008, reflects you drilled with RUC (1997) on 7 June 2008 and 8 June 2008 and specified that your SMCR EAB was being recouped in the amount of \$13,790.28 due to "current pay status FR 0001 20080610 is TRANS from SMCR to

IRR or SR." On 9 July 2009, Defense Finance and Accounting Service provided you notification of recoupment action required for the unearned portion of your enlistment bonus for \$13,790.28. On 6 August 2009, you were joined for duty with

Subsequently, you executed two extensions for an aggregate of 10-months and honorably discharged on 2 October 2011. The Board could not find, no did you provide sufficient evidence to refute your transfer to the IRR from 10 June 2008 through 5 August 2009. On the contrary, the Board noted there are no documents (e.g. drill muster sheets, leave and earning statements, fitness reports, annual retirement credit report, etc...) in your record that supports your assertion of continuous SMCR participation from 10 June 2008 through 5 August 2009, thereby rendering you responsible to repay the prorated amount of the SMCR EAB received.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.



Sincerely,