



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

[REDACTED]  
Docket No. 4364-22  
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]  
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552  
(b) DODFMR, Vol 7B, Chp 54

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 suspend Reserve Component Survivor Benefit Plan (RCSBP) Spouse Only coverage after divorce from first spouse.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 26 October 2022 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), members notified of completion of the years of service required for retired pay eligibility for non-regular retirement must make an election to decline or elect reduced coverage with spousal concurrence within 90-days of receiving notification. The election to participate in or decline RCSBP is irrevocable. After 1 January 2001, a member who is married or has a dependent child is automatically enrolled in RCSBP if an election is not received within 90-days of receiving notification. However, a member with spouse coverage may suspend coverage within 1-year of decree or divorce, dissolution, or annulment, whichever is later. Additionally, the criterion for the spouse to be an eligible beneficiary if married to a member after the date that the member became eligible to participate in RCSBP, is to be married to the member for at least 1-year.

b. Petitioner married [REDACTED] on [REDACTED].

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[REDACTED]

c. On 29 August 2002, Petitioner issued Notification of Entitlement (NOE) to Retired Pay at Age 60 and Eligibility to Participate in the Reserve Component Survivor Benefit Plan (RCSBP).

d. Petitioner transferred to the Retired Reserve awaiting pay effective 1 October 2002.

e. On 16 October 2002, Petitioner signed NAVMC 11221, Reserve Component Survivor Benefit Plan (RCSBP) Option Election Certificate and elected RCSBP Option C (Immediate Annuity) Spouse only coverage at the full retired pay level of coverage.

f. On 25 March 2010, Petitioner's spouse, [REDACTED] legally changed her name to [REDACTED].

g. Petitioner divorced [REDACTED] on 15 June 2015. Final Decree of Divorce did not direct SBP Former Spouse coverage.

h. Petitioner married [REDACTED] on 7 July 2016 and divorced on 23 May 2017. Agreed Final Decree of Divorce did not direct SBP Former Spouse coverage.

i. On 3 June 2022, Petitioner signed DD Form 2656-6, Survivor Benefit Plan Election Change Certificate electing to suspend coverage as a result of divorce.

j. Petitioner transferred to the Retired Reserve with pay effective 15 October 2022; Survivor Benefit Plan Spouse only premium deductions began with no annuitant listed. However, Petitioner has not remarried and the annuity pay system does not reflect RCSBP Spouse premium deductions for coverage from 16 October 2002 through 14 June 2015.

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting the following corrective action. The Board concluded Petitioner provided sufficient evidence to reflect participation in RCSBP following receipt of NOE in 2002, but failed to notify Headquarters Marine Corps (MMSR-6) of his divorce within the 1-year prescribed time outlined in reference (b). Although Petitioner did not complete the proper administrative requirements in a timely manner, the Board concluded that relief is warranted.

## RECOMMENDATION

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

Petitioner elected to suspend RCSBP Spouse coverage within 1-year of divorce from [REDACTED] on [REDACTED].

Note: Defense Finance and Accounting Service will complete an audit of Petitioner's pay records to determine if premium refund is due.

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

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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.

11/14/2022

[REDACTED]