

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01549

XXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His Fiscal Year 2018 (FY18) Aviation Bonus (AvB) Agreement be corrected to reflect a six-year agreement with effective dates 13 Apr 18 to 12 Apr 24.

APPLICANT'S CONTENTIONS

After he submitted his FY18 AvB Agreement, the end date was erroneously changed without his knowledge and made it a three-year agreement instead of his requested six-year agreement. When he signed the FY18 AvB Statement of Understanding, it reflected effective dates 13 Apr 18 to 12 Apr 24, but as shown on the form it was over-written to reflect an end date of 12 Nov 21 and this was done without his knowledge. He entered into an AvB Agreement in 2018 for six years and changing that date significantly changes he original intent as well as the calculus.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air National Guard colonel (O-6).

On 7 Nov 17, according to Order Number Work-Product provided by the applicant, he was issued Statutory Tour orders for extended active duty in accordance with 10 U.S.C. § 12301(d) for the period 4 Dec 17 through 3 Dec 21.

According to the Air National Guard FY18 Aviation Bonus Implementation Policy paragraph 2.1.8. "Statutory Tour members, who have AGR restoration rights or follow-on AGR orders, may request an agreement that exceeds their current statutory tour end date. Such requests must include unit WG/CC approval."

On 7 Jun 18, according to FY18 AvB Agreement (Statement of Understanding), provided by the applicant, he signed and requested a Tier 2 AvB contract for \$25,000 a year for four to six years. The effective start and end date of the agreement is from 13 Apr 18 through 12 Apr 24. On 8 Jun 18, the applicant's wing commander approved the agreement.

On 14 Aug 18, according to another copy of the FY18 AvB Agreement (Statement of Understanding) provided by the applicant, the effective end date was changed to reflect 11 Nov 21 and was signed by a Judge Advocate General.

On 24 Sep 22, a pull from the Military Personnel Database System provided the applicant's Point Credit Summary report, which confirms he has been on a continuous active-duty status for his Retention and Retirement years 30 Jun 17 through 29 Jun 22 and has continued in that status through 30 Sep 22.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

AIR FORCE EVALUATION

NGB/A1P recommends granting the application. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. When the fully endorsed FY18 AvB Agreement was forwarded to NGB/A1PF it had the requested dates of 13 Apr 18 to 11 Nov 21. However, the original agreement signed by the applicant included the requested dates of 13 Apr 18 to 12 Apr 24. A review of the supporting documentation shows the applicant originally submitted an agreement for six years. It was incumbent on the AvB coordinator to submit the agreement as requested by the applicant, but the end date was erroneously changed after he submitted the agreement to the AvB coordinator, but before it was received by NGB/A1PF.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 30 Sep 22 for comment (Exhibit D), and on that same day the applicant responded with no rebuttal and requested that his case proceed to the Board.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. The Board concurs with the rationale and recommendation of NGB/A1P and finds a preponderance of the evidence substantiates the applicant's contentions. Therefore, the Board recommends correcting the applicant's records as indicated below.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that his Fiscal Year 2018 Tier 2 AvB agreement be changed to reflect a six (6) year agreement for the period of 13 Apr 18 through 12 Apr 24, at the rate of \$25,000 per year.

CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-01549 in Executive Session on 17 Nov 22:

, Panel Chair
, Panel Member
, Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 3 Jun 22.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

Exhibit C: Advisory opinion, NGB/A1P, dated 5 Aug 22.

Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 30 Sep 22.

Exhibit E: Applicant's response to advisory, dated 30 Sep 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.