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**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02313

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His Thrift Savings Plan (TSP) contributions be matched and he receive back pay with the appropriate interest beginning when he entered the service.

APPLICANT'S CONTENTIONS

When he in processed into the Air Force, he filled out all required paperwork and was told he would receive matching TSP contributions up to five percent. He has not been matched to date for any contributions and has calculated a loss of \$5,953.46 in missing contributions and even more in missed interest.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a Regular Air Force (RegAF) captain (O-3).

On 27 April 2015, according to DD Form 4/1, *Enlistment/Reenlistment Document Armed Forces of the United States*, indicates as a Reserve Officer Training Corps (ROTC) cadet in the Air Force, he enlisted in the grade of Airman First Class (E-3) in the Obligated Reserve Section (ORS) and established his Date Initially Entered the Uniform Services (DIEUS) as 27 April 2015. Since the applicant's DIEUS was on or before 17 December 2017, he was grandfathered under the legacy retirement system, but was eligible to opt into the BRS after entering active duty or the Active Ready Reserve.

On 17 January 2019, according to Reserve Order *Work-Product*, the applicant was relieved from his enlisted grade of E-3 and was appointed as a second lieutenant (O-2) in the Reserve of the Air Force.

Effective 16 January 2020, as noted in Special Order *Work-Product*, dated 9 December 2019, the applicant entered active duty and was assigned to the Air Force Space Command in Los Angeles, CA.

On 20 May 22, according to a Case Management System (CMS) print-out, provided by AFPC/DP3SA, the applicant's Financial Services Officer (FSO) submitted case number 14440256 inquiring about the applicant's eligibility for opting into the BRS. In response, AFPC indicated they could send the applicant a notification that would allow him to opt-in; however, the applicant requested confirmation on whether BRS election would be backdated to the 16 Jan 20

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date he entered active duty and if it would include the lost matching contributions and the interest he would have earned from the date of election. On 10 Jun 22, AFPC responded indicating since there was no issues with the system they did not have the authority to backdate and he would need to submit a AFBCMR application.

On 6 June 2023, a printout from the Military Personnel Data System (MilPDS) shows the applicant's Retirement Plan is "H" and at that time he was under the "High-3" legacy retirement plan.

On 23 February 2024, a printout from MilPDS shows the applicant's Retirement Plan now reflects the BRS and that he opted into the new retirement plan on 23 June 2023.

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

APPLICABLE AUTHORITY/GUIDANCE

Sections 631 through 635 of Public Law 114-92, the National Defense Authorization Act for Fiscal Year 2016, amended in Public Law 114-80, National Defense Authorization Act for Fiscal Year 2017.

On 27 January 2017, the Deputy Secretary of Defense implemented guidance for the newly created retirement system for the Uniformed Services, which was enacted in the 2016 National Defense Authorization Act for Fiscal Year 2016. This system, called the Blended Retirement System combines the traditional legacy retirement pension, also known as a defined benefit, with a defined contribution benefit into a Thrift Savings Plan. The Blended Retirement System went into effect on 1 January 2018. Service members who enter the Uniformed Services on or after 1 January 2018, are automatically enrolled in the Blended Retirement System.

Active component Service members with 12 years (or more) of service prior to 31 December 2017, and National Guard and Reserve service members who have accrued more than 4,320 retirement points as of 31 December 2017, are grandfathered under the legacy retirement system and their current retirement plan will not change.

Active component Service members with fewer than 12 years of service as of 31 December 2017, calculated from their Pay Entry Base Date [PEBD] (for the Air Force it is referred to as the "Pay Date"), and members of the National Guard or Reserve who have accrued fewer than 4,320 points as of 31 December 2017, are also grandfathered under the current retirement system but may choose to opt-in to the Blended Retirement System. Service members who chose to enroll had to affirm on the myPay website they had completed the mandatory training and acknowledge the decision to enroll in the Blended Retirement System is irrevocable. The opt-in window for most Airmen closed on 31 December 2018.

Personnel Service Delivery (PSD) Guide, *Blended Retirement System (BRS) New Accession Opt-in Process for Active Duty:*

Section B, Automatic Extensions of Opt-in Window: Officers who commissioned through the USAF Academy or Senior ROTC, or who recently completed Uniformed Services University of the Health Sciences (USUHS) or Health Professions Scholarship Program (HPSP), are eligible for an extension of the Blended Retirement System (BRS) enrollment period if they have a commissioning date on or after 1 December 2018, a DIEUS prior to 1 January 2018 and less than 12 years of service (calculated from pay date) as of 31 December 2017. Upon reentering active

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duty, AFPC/DP2STM notifies the Airman via myPers of their Blended Retirement System (BRS) extension opt-in approval and are given 30 days from notification to request access to opt-in via the Blended Retirement System (BRS) module.

Section C, Discretionary Extensions of Opt-in Window: Officers may also apply for a “Discretionary Extension of Opt-in Window” for an extension of the 30-day opt-in window. A list of these exceptions can be found in the PSD guide at Exhibit C; however, the majority of the reasons for extension reference an inability for the member to opt-in (i.e. deployment, failure of notification) or other extraordinary or exceptional circumstances that are beyond the member’s control.

Section D, Notifying New RegAF Accessions on Opt-In Eligibility and Hardship Extension Procedures:

1. To assist in notifying Airmen of the opt-in eligibility and hardship extension application procedures, AFPC/DSYD provides a listing to AFPC/DP1TSR which identifies RegAF Airmen with an EAD during the previous month. The roster contains the grade, name, SSN, and other pertinent information for individuals with a DIEUS date of 31 December 2017 or earlier who meet general eligibility criteria for an automatic opt-in extension (see Section B.)

2. Each month, AFPC/DP3SA sends a report to AFPC Accessions policy, AFPC/DP3DA, who will send it to DFAS to determine if any Airmen were erroneously enrolled in BRS during the accession process.

2. NOTE: ROTC/Academy officers will automatically get a 60 day extension period updated in MILPDS (see Section E). AFPC/DP1TSR creates notifications to the Airmen via myPers using the instructions outlined in Section F and monitor the acknowledgements using the following schedule:

AFMAN 36-2604, Service Dates, Chapter 2, Table 2.1. Explanation of Service Dates

Rule 14: DIEUS - Service from the date of initial acceptance of commission, appointment, or enlistment in any branch of a Uniformed Service (Regular or Reserve; active or inactive). This is a fixed date and is not adjusted for time lost or breaks in service. It includes enlistment as a Reserve in the Reserve Officers' Training Corps (ROTC) program, or as a scholarship cadet or midshipman under 10 USC § 2107, Financial assistance program for specially selected members or 10 USC § 2107a, Financial assistance program for specially selected members: Army Reserve and Army National Guard, enlistment under 10 USC § 12103, Reserve components: terms, enlistment in active component delayed entry/enlistment program, and entrance as a cadet or midshipman at a service academy.

AIR FORCE EVALUATION

AFPC/DP3SA (Military Retirements Section) recommends denying the application. TSP contributions are not matched by the service unless the individual is enrolled into the BRS. BRS applies to members who have a DIEUS or Date Initially Entered Military Service (DIEMS) of 1 January 2018 and later; however, RegAF service members with a DIEUS before 1 January 2018, who have less than 12 years of service calculated from pay date, as of 31 December 2017, were grandfathered into the High-3 retirement plan but may elect to change to the new retirement system. The BRS election period closed in 2019 but individuals could request an extension to that BRS election period based on certain justification.

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The applicant's DIEMS date is 27 April 2015 and based on this was correctly enrolled in the "High-3" retirement plan. There were three Case Management System (CMS) cases submitted by his base finance office to DFAS. The first two referenced TSP but did not mention BRS.

In his most recent case (14440256) submitted 20 May 2022, it referenced BRS stating he should have been automatically enrolled into BRS and receiving matching contributions based on being in service prior to 2018. However, this was incorrect by the base finance office and on 26 May 2022, DFAS advised back that the personnel file did not reflect an election by the member into BRS. This was after being sent BRS Acknowledgment Notification by AFPC on 20 April 2022 which outlined his eligibility to either stay in "High-3" or request extension of BRS election period to opt into BRS. The applicant had sent in a question to AFPC stating he had opted into BRS while in ROTC which was relayed to DFAS. DFAS explained in the CMS case this was not possible since an individual had to be on active duty before being eligible to opt into BRS. It was likely he was briefed while in ROTC on BRS eligibility and had signed a form stating they understood but this did not opt them into BRS.

The base finance office advised back that the applicant understood but wanted confirmation on opting into BRS would it be backdated to entry date of not? DFAS advised they did not have authority to backdate a member unless the system itself was responsible for their BRS issues, and advised that the applicant would need to submit a BCMR request to explain why it should be backdated.

Therefore, AFPC recommends deny based on the fact that the applicant was sent multiple notifications by AFPC of what he needed to do to request extension of the BRS election window, but he failed to take appropriate steps. This process was also explained by DFAS in the Case Management System case. Since he was never enrolled in BRS consideration for backdating an election should not be allowed.

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 7 June 2023 for comment (Exhibit D), but has received no response.

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. While the Board notes the recommendation of AFPC/DP3SP against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions in part. In this regard, the Board finds the applicant entered active duty on 16 January 2020 and should have received notification about his eligibility to opt into the BRS program at that time. However, according to DP3SP and the CMS case it appears the applicant did not receive notification until April 2022, nearly two years after he became eligible. Furthermore, the Board notes the applicant has since been allowed to opt into the BRS and did so on 23 June 2023. Given the program is new and the applicant was part of a small number of Airmen who entered active duty after 1 January 2019, but were still eligible to choose their retirement plan, the Board finds it reasonable to assume either the applicant was not properly notified or there was confusion on

whether he was automatically enrolled into the program when he initially entered. As such, the Board finds the evidence sufficient to recommend backdating his date of election to the date he entered active duty. However, the portion of the applicant's request for unearned interest he would have received is outside the Board's purview and will be determined by DFAS. As such, the Board has the authority to correct the record and in so doing, DFAS can make any appropriate financial calculation for backdating matching contributions and unearned interest. 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 his date of election to enter the Blended Retirement System be backdated to reflect 16 January 2020, the date he entered into active duty.

However, regarding the remainder of the applicant's request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2022-02313 in Executive Session on 12 Mar 24:

- Work-Product* [redacted] Panel Chair
- Work-Product* [redacted] Panel Member
- Work-Product* [redacted] Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, dated 29 August 2022.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP3SA, w/atchs, dated 7 June 2023.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 13 June 2023.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

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