

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-00555

XXXX

**COUNSEL:** XXX

**HEARING REQUESTED:** NO

### APPLICANT'S REQUEST

His Fiscal Year 2021 (FY21) Tier 3 Aviation Bonus (AvB) Agreement for the period of 1 Oct 21 through 30 Sep 23 at the rate of \$15,000 annually be approved.

### APPLICANT'S CONTENTIONS

On 15 Sep 17, he signed an AvB agreement under Tier 1 for a period of four to six years and was under the impression that the agreement would automatically be extended to six years if he was on active duty. At the end of the four-year period, he was not notified by the AvB coordinator that his agreement had expired and that he was eligible to sign a new agreement. At the time, he was under MPA orders and eligible to enter a Tier 3 bonus agreement in the amount of \$15,000 per year. In Sep 22, when he did not receive the expected fifth payment of his FY17 AvB he was made aware of the error. However, he was unable to enter into another AvB agreement starting on the date he was initially eligible in Sep 21 because the FY21 program had expired.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an Air National Guard (ANG) lieutenant colonel (O-5).

On 13 Sep 17, according to Order Number xxxxx, he was issued Active Guard Reserve Initial Tour (Title 32) orders in accordance with 32 USC § 502(f) and Air National Guard Instruction (ANGI) 36-101 for the period of 15 Sep 17 – 14 Sep 20.

On 15 Sep 17, according to *Fiscal Year 2017 Aviation (AvB) Agreement (Statement of Understanding)* provided by the applicant, he signed and requested a Tier 1 AvB contract for \$30,000 a year for four to six years. The effective start and end date of the agreement is from 15 Sep 17 to 14 Sep 21.

On 24 Jun 19, according to Order Number xxxxxx dated 25 Sep 20, he was issued Active Duty – Voluntary Non Contingency (MPA) orders in accordance with 10 U.S.C §12301(d) for the period of 24 Jun 19 – 30 Sep 21.

On 1 Oct 21, according to Order Number xxxxxx, dated 28 Sep 22, he was issued Active Duty - Voluntary Non Contingency (MPA) orders in accordance with 10 U.S.C §12301(d) for the period of 1 Oct 21 - 30 Sep 23.

On 20 Jan 23, according to memorandum for record, *Tier 1 AvB - <applicant>*, the wing AvB coordinator stated that at the conclusion of the applicant's FY17 AvB agreement they failed to inform the applicant of his future AvB eligibility and failed to provide the applicant with the appropriate paperwork required for a subsequent AvB agreement.

On 17 May 23, a pull from the Military Personnel Database System provided the applicant's Point Credit Summary report, which confirms he has been on continuous active-duty status for his Retention and Retirement years 19 Dec 03 thorough present.

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 applicant's request for a FY21 Tier 3 AvB agreement for the period of 1 Oct 21 through 30 Sep 23. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. At the end of the four-year term of his FY17 bonus, the applicant was not notified by the AvB coordinator that his agreement had expired and he was eligible to sign a new agreement. At that time, the applicant was serving under MPA orders and eligible to enter a Tier 3 bonus agreement at the annual amount of \$15K. It was not until September 2022 that the applicant was made aware of the error after he did not receive an expected fifth payment to his FY17 AvB agreement. As such, while the applicant only signed a four year agreement in FY17, he should have been able to enter a new agreement starting on the date he was initially eligible in September 2021. However, after discovering the error and because he was not notified of his eligibility for a new AvB agreement until after the FY21 program had expired, his agreement was denied.

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 12 Apr 23 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. 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.

### **RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that his Fiscal Year 2021 Aviation Bonus (AvB) Agreement for the period of 1 October 2021 through 30 September 2023, was approved at the rate of \$15,000 per year, and any previously due payment be made upon correction of the Aviation Service Date noted on the agreement.

## 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-2023-00555 in Executive Session on 12 Jun 23:

, 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 15 Feb 23.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory opinion, NGB/A1P, dated 22 Mar 23.  
Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 12 Apr 23.

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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Board Operations Manager, AFBCMR