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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

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DOCKET NUMBER: BC-2023-03802

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

His election of benefits under the Reserve Component Survivor Benefit Plan (RCSBP) be changed. Specifically, to decline participation in the RCSBP.

APPLICANT'S CONTENTIONS

Upon retirement, he elected to decline RCSBP coverage via filling out DD Form 2656, *Data for Payment of Retired Personnel*. His spouse filled out and notarized a statement of concurrence, electing not to be covered. However, he apparently did not fill out the member certification section. This oversight was not caught by him, nor by the noncommissioned officer who assisted him. He was not informed of a discrepancy on the form.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air National Guard lieutenant colonel (O-5), receiving retired pay.

On 30 Apr 15, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant resigned from the Regular Air Force with a narrative reason for separation of Reduction in Force. He was credited with 13 years, 1 month, and 4 days of net active service this period and 10 years, 11 months, and 3 days of prior active service.

On 11 May 18, according to DD Form 2656, the applicant did not make an election in Section X, *Survivor Benefit Plan (SBP) Election* Block 33, *Reserve Component Only*. In Block 34, *SBP Beneficiary Categories*, the applicant selected Option G, *I elect not to participate in SBP*, and his spouse concurred with the election.

On 31 Oct 18, according to NGB Form 22 EF, *Report of Separation and Record of Service*, the applicant was discharged from the Air National Guard for the purpose of retirement.

On 1 Nov 18, according to Special Order **Work-Product** dated 26 Dec 18, the applicant was placed on the Air Force Reserve Retired List pursuant to Title 10 United States Code, Section 8911 (10 U.S.C. § 8911), qualifying for Regular active duty retired pay.

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

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APPLICABLE AUTHORITY

DoDI 1332.42, *Survivor Benefit Plan*, the Secretary concerned must notify all members who are eligible to elect to participate in the SBP and RCSBP programs, such that: (1) Members qualifying for a Regular or disability retirement pursuant to Chapter 61 of Title 10, U.S.C. will be notified of their eligibility to participate in SBP before retirement; and (2) Members qualifying for a non-regular retirement pursuant to Chapter 1223 of Title 10, U.S.C. will be notified of their eligibility to participate in RCSBP, and SBP, upon Notice of Eligibility.

AIR FORCE EVALUATION

ARPC/DPTT (Transition Division) recommends denying the application. SBP is administered pursuant to 10 U.S.C., Subchapter II, Chapter 73. SBP pays a monthly benefit to designated survivors of an eligible service member or retiree. SBP, and the associated RCSBP program, allows service members and retirees to ensure their designated beneficiaries continue to receive an annuity in place of their retired pay after their own death.

All Reserve component service members who are eligible to participate in RCSBP, but who fail to make an election in the prescribed time will, by law, automatically have full, immediate RCSBP coverage for their dependent spouse and/or children, based upon dependents in the member's record in the Military Personnel Data System. The prescribed time limit for RCSBP election is before the end of the 90th day after the service member receives notification of having completed the years of service to be eligible for non-regular retirement in accordance with 10 U.S.C. § 12731.

On 16 Oct 14, the applicant completed 20 satisfactory years of service; however, the RCSBP Notification of Eligibility (NOE) takes approximately 120 days for members to receive as there is a delay in the Point Credit Accounting Reporting System to reflect the 20 satisfactory years in record. The applicant logged into virtual Military Personnel Flight (vMPF) on 23 Oct 15 confirming they received their RCSBP NOE. When a member logs into vMPF this automatically starts their 90 day timeframe as prescribed by law to decline or change their coverage. The applicant did not return the requested DD Form 2656-5, *Reserve Component Survivor Benefit Plan Election Certificate*, with his desire to decline coverage within the 90-day timeframe; therefore, the applicant was automatically enrolled based on his eligible beneficiaries, which resulted in Option C, *Choose benefits to begin immediately upon your death, regardless of age*.

Per DoD 7000.14-R, *Financial Management Regulation*, Volume 7B, Chapter 43 section 4.1, "Any member who is notified of his or her completion of the years of service required for retired pay eligibility for non-regular retirement may elect to participate in RCSBP before the end of the 90-day period. A member who is married or has a dependent child, and who receives notice of eligibility for retired pay, after 1 Jan 01, is automatically an immediate participant in RCSBP unless the member elects (with spousal concurrence, if required) not to participate or to defer the decision or delay coverage before the end of the 90-day period."

On 6 Dec 18, in preparation for commencement of retired pay the applicant completed DD Form 2656 in conjunction with his retirement application. In Section 34 the applicant erroneously selected Option G. Reserve and Guard members who have a previous RCSBP election of Option C cannot make a new election on DD Form 2656. The DD Form 2656 is not a change of election form. The applicant should have only selected Option C in Section 33. The applicant did not make an election within the 90-day timeframe following receipt of the NOE as prescribed by law and is ineligible to change his election outside of the eligible timeframe.

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 27 Mar 24 for comment (Exhibit D), and the applicant replied on 21 Apr 24. In his response, the applicant contends he does not believe his initial election paperwork was properly briefed or handled. The retirement pay he earned via three decades of service should be his to dispose of. As soon as he was made aware of the implications of SBP, he tried to rid himself of it. The Air Force has lost his SBP election twice while mishandling the initial SBP notification. Furthermore, on 16 Oct 14, he had already completed over 23 years of active service and was an active Regular Air Force officer at the time. RCSBP did not apply to him since he was not previously a member of the Reserve component. He requests he be refunded all premiums that have been paid.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all other available administrative remedies 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 ARPC/DPTT's recommendation against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. More specifically, prior to transferring to the Air National Guard the applicant served 23 years of active duty service, qualifying for a Regular retirement. In Oct 14, the applicant was notified he completed the required years of service to retire under the provisions of 10 U.S.C. § 12731 and was eligible to participate in RCSBP. Based on his prior active duty service, the applicant was not entitled to Reserve retired pay or coverage under RCSBP. Nevertheless, his non-response triggered the Military Personnel Data System to update an automatic RCSBP election of Option C (immediate maximum coverage). In May 18, prior to entitlement to active duty retired pay pursuant to 10 U.S.C. § 8911, the applicant elected not to participate in SBP, with spousal concurrence. However, the election was invalidated based on the previous erroneous enrollment in RCSBP. Accordingly, 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:

a. He elected Option A, *Previously declined to make an election until eligible to receive retired pay*, for his RCSBP within 90 days of his Notification of Eligibility and his spouse concurred with the decision.

b. On 11 May 18, he elected not to participate in the SBP, and his spouse concurred with the decision.

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c. He be authorized full reimbursement of all SBP premiums withheld from his retired pay.

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-2023-03802 in Executive Session on 29 Aug 24:

Work-Product	, Panel Chair
Work-Product	, Panel Member
Work-Product	, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 3 Nov 23.
- Exhibit B: Documentary Evidence, including relevant excerpts from official records.
- Exhibit C: Advisory, ARPC/DPTT, dated 20 Mar 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 27 Mar 24.
- Exhibit E: Applicant’s Response, w/atchs, dated 21 Apr 24.

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.

9/25/2025

X _____
 Work-Product
 Work-Product, DAF
 Associate Director, AFBCMR
 Signed by: USAF