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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2023-03998

COUNSEL: NONE

HEARING REQUESTED: YES

### APPLICANT'S REQUEST

1. His election of benefits under the Survivor Benefit Plan (SBP) be changed. Specifically, to decline SBP coverage for his current spouse.
2. He be reimbursed for all retroactive SBP premiums deducted from his retired pay.

### APPLICANT'S CONTENTIONS

He is seeking restoration of nearly \$10,000 deducted by Defense Finance and Accounting Service (DFAS) from his retirement account over the last six months, and the cancellation of an unjustified \$52,000 DFAS SBP Debt. To facilitate, he requests insertion of a proper SBP declination statement via DD Form 2656-6, *Survivor Benefit Plan Election Change Certificate*, along with his marriage license be entered into his SBP record effective 2 Dec 13, the date of his current spouse's in-brief. Also request withdrawal of DD Form 2656-6 and the SBP and Reserve Component Survivor Benefit Plan (RCSBP) Open Season Election to Discontinue Participation Form. Both forms were inadvertently forwarded to DFAS based on misunderstood and misleading advice from DFAS representatives. Corrective orders will reverse the unjust debt and enable restoration of lost retirement funds. DFAS continues unjust deductions until corrective orders are issued. He is seeking this action now based on DFAS recommendation and his need to stop the ongoing catastrophic deductions from his retirement account. The ongoing interface with DFAS has sadly resulted in misleading information, miscommunication, and a general lack of trust and due process. Apparently this debt stems from 10 years of unpaid SBP premiums for something he knew nothing about and occurred due to an administrative error in 2013 after remarriage. He and his current spouse were never counseled prior to or after this error and DFAS is now unjustifiably deducting over \$1,308 per month against a \$52,000 debt for something they really did not have or were aware of for the last 10 years. They were misinformed and confused regarding SBP Open Season forms, the government debt, and even further confused after receiving over 9 different Retiree Account Statements since Jul 23. They have also never received any official debt due process letter. Currently, his family has no SBP coverage due to misleading DFAS advice, but they must still pay for an egregious SBP back premium debt. Their lack of counseling and knowledge about the ever changing, complex SBP program has led directly to a huge financial tsunami for their aging family. They initially sought out information only from DFAS, but ended up with a crushing 15 percent monthly deduction, no coverage, and no due process. Consistently correct DFAS information is now very difficult to obtain. He is seeking quick, corrective action due to his concern about leaving these unjust debt payments to his elderly wife at his demise.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

AFBCMR Docket Number BC-2023-03998  
CUI//SP-MIL/SP-PRVCY

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The applicant is a retired Air Force colonel (O-6).

On 8 Nov 05, according to DD Form 2656, *Data for Payment of Retired Personnel*, the applicant elected Option B (Coverage for Spouse and Child[ren]) based on full retired pay.

On 1 Jan 06, according to Special Order **Work-Product**, dated 14 Jan 05, the applicant retired from the Regular Air Force.

On 2 April 09, according to a Marital Settlement Agreement, provided by the applicant, the applicant and his former spouse divorced.

On 30 Dec 13, according to a Certificate of Marriage, provided by the applicant, he married his current spouse.

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

## AIR FORCE EVALUATION

AFPC/DPFC (Casualty Matters Division) recommends denying the application. SBP spouse coverage is irrevocable as long as there is an eligible beneficiary but is suspended when the spouse loses eligibility. Title 10 United States Code (U.S.C.), Section 1448 allows for a participant with suspended spouse coverage to elect to either resume or decline coverage for a subsequently acquired spouse by notifying DFAS. The member will submit DD Form 2656-6 along with supporting documents prior to the first anniversary of the new marriage. However, the new spouse will be automatically covered at the previous level on the first anniversary of the marriage if the member takes no action before that date. Premiums for the coverage become effective the first day of the thirteenth month and DFAS will compute the retroactive costs when evidence of the remarriage becomes a matter of record.

The applicant and his former spouse elected spouse and child SBP coverage based on full retired pay prior to his 1 Jan 06 retirement. DoD Person Search records via Defense Enrollment Eligibility Reporting System (DEERS) reflect the applicant divorced his former spouse on 2 Apr 09. DFAS received notification of the divorce and SBP coverage premiums were suspended. The applicant's child lost eligibility due to age in Oct 11. The applicant and his current spouse were married on 30 Nov 13, but he failed to inform DFAS that he did not want to extend coverage to her before the first anniversary of their marriage. The applicant reached out to DFAS to inquire about the SBP Open Season to possibly enroll his current spouse. Upon learning of the applicant's remarriage, DFAS reinstated spouse coverage retroactive to 1 Dec 14 (after the first anniversary of their marriage) in accordance with the law. Monthly premiums began to be deducted from the applicant's retired pay as required by law, and the retroactive SBP premium debt began to be recovered. Retired members are personally responsible to ensure they obtain or exempt their dependents' eligibility for military benefits. Participants should contact DFAS immediately upon gaining or losing a potential SBP beneficiary to determine their options.

With regard to the retroactive premiums, SBP is a government subsidized program where the member pays a smaller portion with the spouse receiving 55% of the member's retired pay. This annuity would have been paid to the applicant's spouse had the applicant passed away. The applicant may seek relief of a portion of the debt owed (up to \$25,000) by submitting a waiver to SAF/FMR.

There is no evidence of an Air Force error or injustice and no basis in the law to grant the applicant's request. Providing the applicant an additional opportunity to not resume SBP spouse coverage would be inequitable to other members in similar situations.

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 23 Feb 24, for comment (Exhibit D), and the applicant replied on 29 Jul 24. In his response, the applicant contended that adjudication of his SBP correction request should resume immediately, if not already accomplished. This monthly ongoing deduction is without his consent, due process, or any formal notification from DFAS. DFAS ignored his pleas and involuntarily continue to deduct over \$1,200 plus interest per month until they are repaid.

The applicant's complete response is at Exhibit E.

## **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 not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPFC and finds a preponderance of the evidence does not substantiate the applicant's contentions. It is unfortunate that the applicant failed to notify DFAS in a timely manner of his remarriage, to preclude a debt or to deny SBP coverage for his current spouse. SBP is a government subsidized program where the member pays a smaller portion with the spouse receiving 55 percent of the applicant's pay. This annuity would have been paid to his current spouse had the applicant passed away. The applicant can seek relief for a portion of the debt owed (up to \$25,000) by submitting a request for waiver to SAF/FMR (Financial Management and Comptroller). To provide the applicant an opportunity to not resume SBP spouse coverage would be inequitable to other members in similar situations and is not justified by the facts. Therefore, the Board recommends against correcting the applicant's records.
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 Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

## **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-2023-03998 in Executive Session on 10 Apr 25:

*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, w/atchs, dated 29 Nov 23.

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

Exhibit C: Advisory, AFPC/DPFC, dated 31 Jan 24.

Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 23 Feb 24.

Exhibit E: Applicant's Response, w/atchs, dated 29 Jul 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.

7/14/2025

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Board Operations Manager, AFBCMR	
Signed by: USAF	