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

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RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00417

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COUNSEL: *Work-Product*

HEARING REQUESTED: *Work-Prod...*

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APPLICANT'S REQUEST

His remaining debt for recoupment of his Voluntary Separation Pay (VSP) be remitted.

APPLICANT'S CONTENTIONS

The Secretary of the Air Force's 17 October 2007 waiver memorandum supports his waiver request because it was in effect when he entered into his separation contract. He received a copy of this waiver to demonstrate the Air Force's agreement to forgo recoupment of his separation pay. The second memorandum, signed on 30 April 2008, clarified that waivers would be handled on an individual, case-by-case basis. He applied for Department of Veterans Affairs (DVA) disability benefits in March 2008 and separated from the Air Force on 30 April 2008. In 2010, the DVA notified him that it would recoup \$253,339.65 in VSP. He would not have left active duty and accepted VSP if he had known the funds would be recouped from his DVA disability benefits.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force Reserve major (O-4).

On 29 August 2007, the applicant signed the Ready Reserve Agreement to Receive Voluntary Separation Pay. Item 5 states, "I understand that if I later become eligible (as a result of the service upon which my separation pay amount is based) for disability compensation administered by the DVA, the DVA will withhold such payments until the amount withheld equals the gross amount of separation pay less the amount of federal income tax withheld."

On 30 April 2008, the applicant was honorably discharged from active duty with a narrative reason for separation of "Force Shaping – VSP." He served 14 years, 8 months and 4 days. The applicant served in the Air Force Reserve following his discharge from active duty.

On 17 November 2010, according to a memorandum provided by the applicant, the DVA advised the applicant they would start recoupment of his VSP in the amount of \$253,339.65 effective 1 February 2011.

Conformed to the A11
Controlled by: SAE/MRB

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Force recoupment schedule, 50 percent of the monthly disability compensation would be withheld until the full amount of VSP paid minus federal taxes withheld is collected.

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

APPLICABLE AUTHORITY/GUIDANCE

Per DAFI 36-3034, *Remission of Indebtedness*, paragraph 6. Appeal. Appeals must be made within 30 days of receiving the final agency decision. Paragraph 6.4. Where an applicant bypasses. Where an applicant bypasses this appeal procedure by filing an application to the AFBCMR before this appeal procedure is exhausted, the AFBCMR application may be returned to the applicant.

Per 10 U.S.C. § 1175a (h) (2)(A), Except as provided in subparagraphs (B) and (C), a member who is paid voluntary separation pay under this section shall not be deprived, by reason of the member's receipt of such pay, of any disability compensation to which the member is entitled under the laws administered by the Secretary of Veterans Affairs, but there shall be deducted from such disability compensation an amount, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such disability compensation is equal to the total amount of voluntary separation pay so paid, less the amount of Federal income tax withheld from such pay (such withholding being at the flat withholding rate for Federal income tax withholding, as in effect pursuant to regulations prescribed under chapter 24 of the Internal Revenue Code of 1986).

FINDINGS AND CONCLUSION

1. The application was not timely filed.
2. The applicant exhausted all other available administrative remedies before applying to the Board.
3. After reviewing all Exhibits, the Board remains unconvinced the evidence presented demonstrates an error or injustice. The Board concurs with the prior decisions of the AFRB and DFAS and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant contends the Secretary of the Air Force's 17 October 2007 waiver memorandum supports his waiver request because it was in effect when he entered into his separation contract. The applicant is reminded he signed an RRA to receive VSP on 29 August 2007, which placed him on notice that the VSP would be recouped if he later became eligible for disability compensation through the DVA. He applied for DVA disability benefits in March 2008 and separated from the Air Force on 30 April 2008.

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-2024-00417 in Executive Session on 19 November 2024:

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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 2 February 2024.

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

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.

9/28/2025

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Associate Director, AFBCMR

Signed by: USAF

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