

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 April 2024

DOCKET NUMBER: AR20230001387

APPLICANT REQUESTS:

- that his effective date of rank to captain (CPT), which is 15 November 2017, be adjusted to be the same as his date of rank (DOR), which is 6 June 2014, and retroactive payment be processed
- a personal appearance before the Board

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Memorandum, subject: Attorney and Personal Statement, Rebuttal for Delay of Promotion and Referral to a Promotion Review Board (PRB), First Lieutenant (1LT) [REDACTED] Applicant]
- Counsel Brief to the President of the PRB, 14 February 2018
  - Table of Exhibits (missing exhibits 19-25 and 28-31)
  - Exhibit 1: Major General (Retired) [REDACTED] Letter of Endorsement, undated
  - Exhibit 2: BG [REDACTED], Letter of Endorsement, 13 December 2017
  - Exhibit 3: State Promotion Orders Number 341-839, 7 December 2017
  - Exhibit 4: Colonel (COL) [REDACTED], Letter of Endorsement, 9 February 2018
  - Exhibit 5: Lieutenant Colonel (LTC) [REDACTED] Letter of Endorsement, 27 December 2017
  - Exhibit 6: Major (MAJ) [REDACTED] Letter of Endorsement, 13 December 2017
  - Exhibit 7: MAJ [REDACTED] Letter of Endorsement, 13 December 2017
  - Exhibit 8: LTC [REDACTED] Letter of Endorsement, 4 January 2018
  - Exhibit 9: MAJ [REDACTED] Letter of Endorsement, 13 December 2017
  - Exhibit 10: MAJ [REDACTED] Letter of Endorsement, 13 December 2017
  - Exhibit 11: COL [REDACTED] Letter of Endorsement, 27 December 2017
  - Exhibit 12: COL [REDACTED] Letter of Endorsement, 27 December 2017
  - Exhibit 13: LTC [REDACTED] Letter of Endorsement, 18 December 2017
  - Exhibit 14: LTC [REDACTED] Letter of Endorsement, 15 December 2017
  - Exhibit 15: CPT [REDACTED] Letter of Endorsement, 13 December 2017
  - Exhibit 16: CPT [REDACTED] Letter of Endorsement, undated

- Exhibit 17: CPT [REDACTED] Letter of Endorsement, 13 December 2017
- Exhibit 18: Officer Evaluation Reports (OERs), multiple dates
- Exhibit 26: Law Enforcement Report (LER), 19 November 2015
- Exhibit 27: Affidavit of [REDACTED] 6 February 2018
- Exhibit 32: Trial Transcript, Mr. [REDACTED] 1 September 2015
- Exhibit 33: Guard Recruiting Assistance Program (G-RAP) Spheres of Influence Diagram, undated
- Exhibit 34: Deposition Transcript, [REDACTED] 7 November 2012
- Exhibit 35: [REDACTED] Records of Mr. [REDACTED] [Applicant]
- Exhibit 36: Guard Association Slams Army Investigation of Recruitment Fraud – Army Times, 26 May 2016
- Exhibit 37: Enlisted Association of the National Guard of the United States (EANGUS) Response to 60 Minutes on G-RAP, 25 May 2016
- Exhibit 38: Guardsmen group wants Army to end longtime inquiry into recruiting bonus program – Washington Times, 29 May 2017
- Exhibit 39: Army National Guard (ARNG) recruitment fraud case rests on murky rules – Washington Times, 22 May 2017
- Exhibit 40: Army finishes 5-year investigation, but NG troops' careers still left in limbo – Washington Times, 30 August 2017
- Exhibit 41: Army targets [REDACTED] Guardsman without proof, his lawyer says – Washington Times, 21 May 2017
- Exhibit 42: Army Fraud Crackdown Uses Broad Net to Catch Small Fish, Some Unfairly – The New York Times, 28 May 2017
- Action Memo, subject: Nomination of 1LT [REDACTED] Fiscal Year 2017 (FY17), CPT, ARNGUS, Army Promotion List (APL) Competitive Category (CC), PSB, 29 October 2018
- Army initiates corrections to criminal database – U.S. Army Public Affairs, 3 November 2022

#### FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states, in effect:

a. He is requesting that his effective date of rank of 15 November 2017 be the same as his DOR of 6 June 2014. He served as a 1LT from 19 June 2012 to 15 February 2018. Throughout this period, he received exceptional OERs even while deployed.

b. He was questioned by two agents from the Army Criminal Investigation Department (CID) in February 2014 and conducted a lie detector test in April 2014. He was informed that he would have his record cleared in a matter of months by the CID agents. He never heard from them again and could not get a single response. His promotion packet was completed and sent up to scroll and he was removed from scroll P11-14 due to the GRAP investigation.

c. He requested assistance through Honorable Congressman [REDACTED] office after he was removed from P06-16 even though he had a memorandum stating his case had been closed from Army CID. He was then informed from the State G1 that his promotion would be held until they received clear guidance from the National Guard Bureau (NGB) to submit his promotion.

d. During his deployment to Kosovo, May 2017 to March 2018, he went before the FY17 CPT, ARNGUS, APL CC PSB and was recommended for promotion but not promoted because of derogatory information. He was sent to the PRB, and he hired a lawyer to help him with the PRB process. After 7 years of red tape and consistently fighting to clear his name, he received recommendation for promotion to CPT from the Secretary of Defense.

e. In his case the delay in question was not a result of any wrongdoing or error on his part or that of his state. He has been top blocked by his raters and senior raters on all but one of his OERs, and performing in higher graded positions throughout, and not receiving the compensation for the job he was doing. He never let this degrade his morale or his performance.

### 3. The applicant provides the following:

a. A memorandum to the President of the PRB, dated 15 January 2018, which states the document, including the brief from his counsel with all exhibits, served as his rebuttal submission. The applicant states in the memorandum to the PRB that he did not violate any rule or law when he encouraged one person to join [REDACTED] ARNG ([REDACTED] ARNG) in 2007. When CID investigators questioned in him February 2014, he willingly and honestly answered every question asked of him and later in April 2014 he volunteered to undergo a polygraph examination.

b. Counsel's brief to the PRB, dated 14 February 2018, wherein he requests that the PRB retain the applicant on the FY17, Reserve Component, APL, ARNGUS, for

promotion to CPT. Counsel's complete brief to the PRB is available for the Board to review. Counsel states, in effect:

(1) The derogatory information in the case relates to the applicant's participation in the G-RAP, which is now defunct. The G-RAP is now widely acknowledged as a flawed program operated by [REDACTED] a government contractor. The applicant participated in the program nearly a decade ago, as a civilian subcontractor. The allegations at issue addressed a single nominee. The information contained in the rebuttal demonstrate that the applicant should be retained on the FY17 ARNGUS APL and promoted to CPT.

(2) The PRB received no evidence to support the allegations outlined in the LER. The LER itself merely stated the unsupported and unexplained conclusions of the CID investigator. The entirety of the information provided to the Board was a heavily redacted and incomplete LER, with no evidentiary support, and excluded the 49 referenced attachments. It confusingly included information from unrelated investigations and unrelated charges against eight other service members. The adverse information at issue is unsubstantiated and should be outweighed by the applicant's proven record of exemplary service. In addition, the applicant was not afforded a full and fair opportunity to review and rebut the adverse information against him in violation of his Due Process Rights guaranteed by the Constitution.

(3) The applicant adhered to G-RAP guidelines and in no way attempted to circumvent program policies. There is no evidence that the applicant's single nominee was rejected by [REDACTED] for failing to adhere to program guidelines. In fact, it was [REDACTED] that contacted the applicant nearly two and a half years after the nomination and directed him to update his direct deposit information and complete supplemental training so he could be paid for his nominee. By approving the applicant's nominee and furnishing the nomination payments to the applicant as a sub-contractor, [REDACTED] validated the nomination as compliant with G-RAP.

(4) CID's allegations against the applicant rested solely on one single nominee's conflicting account of events that occurred years prior – that he did not provide his PII to 1LT [REDACTED] [applicant]. CID failed to review relevant evidence, specifically, the [REDACTED] records related to the single nominee at issue. CID interviewed the single potential Solider (PS) at issue on 12 January 2013. In the initial interview, the PS "related he did not know 2LT [REDACTED] [applicant], nor did 2LT [REDACTED] [applicant] assist him when he enlisted." Less than a month later, CID re-interviewed the PS and this time they obtained a sworn statement and the PS stated, "he knew 1LT [REDACTED] [applicant] because he is a former roommate" but that "he did not provide his PII to 1LT [REDACTED] [applicant]." CID failed to address or reconcile this discrepancy.

(5) There has been no criminal-justice disposition based on the information at issue. The investigation was submitted to the U.S. Attorney's Office for the [REDACTED] [REDACTED] for review. The U.S. Attorney's Office rejected CID's investigation, noting that the U.S. Department of Justice had expressly prohibited making a probable cause determination "with regard to someone they ultimately chose not to charge with a crime." After failing to find traction for its case with federal prosecutors, CID submitted it to the command for administrative disposition.

(6) The information at issue was reported on 14 December 2012 and the investigation dragged on for almost 3 years and is now being resolved administratively. During this time the applicant has been flagged and prevented from promotion, with no recourse. In a response to a Congressional Inquiry sent on the applicant's behalf in August 2016, the applicant finally learned that the investigation had been closed for almost a year.

(7) The information presented to the PRB was thoroughly reviewed by the first General Officer in the applicant's chain of command, MG (Ret) [REDACTED] MG (Ret) [REDACTED] unequivocally recommended that the applicant be promoted to CPT.

(8) On 27 December 2017, the [REDACTED] ARNG issued a State Promotion Order promoting the applicant to CPT, pending federal recognition, which illustrated the State's intent to promote him.

c. A letter of endorsement from MG (Ret) [REDACTED] which states he unequivocally and strongly urge the Board to determine that the applicant remains among the best qualified officers for promotion. In his opinion, he is far and away among the best qualified and his track record of performance eclipses his peers. Prior to his retirement he served as the first General Officer in the applicant's chain of command, and he is very familiar with the investigation involving the applicant's participation in the G-RAP program. "I personally reviewed all of the investigation documents. I personally spoke with the CID agent conducting the investigation. I considered all of the evidence and I determined that 1LT [REDACTED] [applicant] is absolutely innocent." Despite efforts of the [REDACTED] ARNG staff, the investigation never seemed to end, and instead lingered for years. Multiple attempts were made to have the administrative flag withdrawn failed and ultimately MG (Ret) [REDACTED] chose to issue a locally filed General Officer Letter of Reprimand (GOLOR), only to finally resolve the CID accusations. MG (Ret) [REDACTED] stated that, had he known the GOLOR (now removed) would lead to a PRB, he never would have issued the reprimand.

d. Included are 15 additional letters of endorsement from a previous commander, previous supervisors, and officers that served with the applicant. The letters of endorsement all state that based on his proven performance, they highly recommend him for promotion to CPT.

e. Five of the applicant's previous OERs, in which he was rated as Most and Best Qualified by his raters and senior raters.

f. LER dated 19 November 2015, which states the applicant and [other names redacted] committed the offenses of Wire Fraud, False Claims, and Larceny of Government Property, when they submitted claims for GRAP payments they were not entitled to receive and knew to be false.

g. An affidavit from [REDACTED] dated 6 February 2018, which states:

(1) He has over 23 years of investigative experience as a police officer, police detective, private investigator, and law enforcement trainer. As a member of the Federal Bureau of Investigation, the U.S. Marshall's Task Forces and APD Special Assignment Unit, he routinely conducted extensive and complex criminal investigations of major felony crimes. He first became aware of GRAP in 2006 when he was the Commander of the Special Warfare Training Detachment, 5th Battalion, 19th Special Forces Group (A), which is a part of [REDACTED] Army National Guard. He began to investigate GRAP in 2014, after two of his former subordinate Soldiers were charged with theft relating to their duties and responsibilities as Recruiting Assistants. He began to conduct an extensive investigation into GRAP, the contractor [REDACTED] that managed the program, and Task Force Raptor, the Army CID task force that was conducting the criminal investigations. He learned that GRAP was created in 2005 to help meet the recruiting goals of the NG and the basis of the program was for NG Soldiers to become Recruiting Assistants. The Soldiers were independent contractors working directly for [REDACTED] based company called [REDACTED]

(2) Over the seven years that GRAP existed, [REDACTED] changed the "Rules" more than 60 times and published various versions of the "Rules." Of note, he never discovered any evidence that Rule version 2.0 was ever published or disseminated, and the only version of 2.0 that [REDACTED] had produced during legal proceedings was clearly a draft document. The NG began to provide guidance on how to become a Recruiting Assistant through its official publications, but some of the guidance conflicted with the "Rules" and information that [REDACTED] had published. Eventually the lines between who was administering the program; [REDACTED] or the NG blurred significantly with conflicting guidance being sent to the Recruiting Assistants from both [REDACTED] and the NG.

(3) In 2014, U.S. Senator [REDACTED] held hearings before the Subcommittee on Financial and Contracting Oversight and determined that there were instances of fraud associated with GRAP. During these hearings, the committee found that [REDACTED] mismanaged the program, violated Federal law in the manner that they administered the program, and had unlawfully over-charged the U.S. Government.

(4) In response to the allegations of fraud, the U.S. Army's CID created "Task Force Raptor" to investigate fraud associated with GRAP. The Task Force was comprised primarily of U.S. Army Reserve CID agents who volunteered to be placed onto active-duty orders. Many of the part time CID agents possessed little or no actual criminal investigation experience. This created an institutional environment within the Task Force where conducting objective investigations was secondary to getting prosecutions or "positive" outcomes to cases; prosecutions and "positive outcomes" equaled longevity for the Agents through positive OERs.

(5) He stated that his investigations clearly showed that the NGB influenced, ordered, or coerced Soldiers to become Recruiting Assistants. Soldiers received no meaningful training regarding the "Rules" of being a Recruiting Assistant and received no continual training or training updates as the "Rules" changed. CID was blinded by eagerness to conduct investigations into GRAP, leading to false or misleading reports. CID agents benefited from "positive" outcomes to the cases they investigated. To date, senior leadership of the NG and the senior officials of [REDACTED] have not been held accountable for the failings of GRAP. And individual Soldiers, who were doing little more than what their command demanded have been aggressively pursued, criminally prosecuted, administratively destroyed, all the while accruing huge financial burdens defending themselves.

(6) He reviewed the discovery provided by CID concerning the allegations made against the applicant. It consisted of only two documents: a Delay of Promotion memorandum and a 121-page LER which is so heavily redacted, excluding the names of every witness that CID interviewed, the names of every individual who the applicant nominated into GRAP, as well as the identity of the investigating CID agent, that it is impossible to understand the report. The document states that the applicant received \$2,000 in GRAP payments for having nominated one single individual into GRAP in 2007. CID alleged that based on receiving this single payment, the applicant committed wire fraud, larceny, and false claim. CID based their criminal allegation on two separate and contradictory interviews that they conducted with the single person that the applicant nominated into GRAP in 2007. He found nothing to indicate that CID conducted any further interviews or investigations to substantiate or rectify the discrepancies in the contradicted statements provided by "SPC," the one single person.

(7) CID failed to obtain or review the applicant's [REDACTED] records. During his investigation, he was able to obtain the applicant's [REDACTED] records and the records showed that he created his [REDACTED] account on 19 April 2007 and nominated three individuals into GRAP between 2007 and 2010. Two of the three did not enlist and the applicant was not paid for them. The only nominee that the applicant was paid for was entered into GRAP on 1 November 2007 and he received payment for the nominee on 14 May 2010 (2 ½ years later).

(8) The CID agent stated in his report that “SPC” did not provide his PII directly to the applicant and only provided it to his recruiter. From the report and the [REDACTED] records it appears that “SPC” enlisted into the NG in February 2008. [REDACTED] records show that the “SPC” was nominated into GRAP on 1 November 2007. [REDACTED] Rules version 1.0 or 1.5 was in effect at this time and both versions clearly stated that the Recruiting Assistant was to obtain the nominees PII from the recruiter.

h. Trial Transcript of Mr. [REDACTED] the President of [REDACTED] dated 1 September 2015, which states he oversees the day-to-day operation and he answered questions concerning the organization and GRAP. He also explained that Recruiter Assistants would share their stories within their Sphere of Influence, which would be individuals they met within their community, their place of worship, their school, and in their everyday activity in civilian life.

i. Deposition Transcript of [REDACTED] the Deputy Program Manager of GRAP, [REDACTED] from December 2005 until the last program ended.

j. Several NG investigation articles written by the Military Times, Washington Times, and the New York Times reviewing the impact and inequities of the GRAP investigations.

k. An article written by the U.S. Army Public Affairs, dated 3 November 2022, which states the U.S. Army announced it had begun a process to correct errors concerning the previous submission of names to the national database as part of its investigation of the G-RAP and Army Reserve Recruiting Assistance Program conducted from 2012 to 2016. It stated that individuals erroneously indexed in the database would have their names removed and receive notification of the action. The CID Director stated in this article, “Simply put, proper procedures were not always followed. We acknowledge those mistakes and are taking action to correct these records.”

4. A review of the applicant’s service record shows:

a. He enlisted in the Regular Army on 6 April 2000 and honorably served for a period of 4 years. He was discharged on 5 April 2004.

b. On 12 May 2006, he enlisted in the [REDACTED] ARNG, and he was discharged on 23 September 2010 for appointment as a commissioned officer.

c. On 24 September 2010, he took his oath of office as an ARNG Officer.

d. The applicant was promoted to 1LT on 19 June 2012.



e. Orders Number 171-828, issued by the Joint Force Headquarters [REDACTED] National Guard, The Adjutant General's Office, Jackson, Mississippi, dated 20 June 2014, shows he was promoted to CPT, effective date 6 June 2014 and with a DOR of 6 June 2014. The additional instructions stated that the effective date of promotion is determined by the Federal recognition order issued by the NGB, not the effective date of this order. Officer will not be paid at the higher grade nor wear the insignia of the higher grade until Federal recognition is confirmed and received by this headquarters.

f. Orders Number 189-809, dated 8 July 2014, shows his orders were amended. His effective date of promotion and DOR changed from 6 June 2014 to 19 June 2014.

g. Orders Number 329-826, issued by the Joint Force Headquarters [REDACTED] National Guard, The Adjutant General's Office, [REDACTED] dated 25 November 2015, shows he was promoted to CPT, effective 18 November 2015, with a DOR of 18 November 2015. The additional instructions show the effective date of promotion is determined by the Federal recognition order issued by the NGB, not the effective date of this order. Officer will not be paid at the higher grade nor wear the insignia of the higher grade until Federal recognition is confirmed and received by this headquarters.

h. A memorandum dated 7 December 2017, which shows the Department of the Army Reserve Components Selection Board selected the applicant for promotion during the FY17 1LT – CPT APL Board. The results of the board were approved on 15 November 2017. The memorandum states that his effective date of promotion and DOR would be the date he was placed in a duty position as required by Army Regulation 135-155 (ARNG and Reserve – Promotion of Commissioned Officers and Warrant Officers) for his area of concentration, but not earlier than the approval date of the board that selected him for promotion; 15 November 2017.

i. On 7 December 2017, the applicant signed the election certificate which showed he was currently assigned to a higher graded position in the [REDACTED] ARNG, and he accepted the promotion to CPT.

j. Orders Number 341-839, issued by the Joint Force Headquarters [REDACTED] National Guard, The Adjutant General's Office, [REDACTED], dated 7 December 2017 shows he was promoted to CPT with an effective date of 15 November 2017, with a DOR of 6 June 2014.

k. On 29 October 2018, the FY17 CPT, ARNGUS, APL CC, PSB recommended the applicant for promotion to CPT, and the board results were approved on 15 November 2017. The memorandum states that the applicant's name was withheld from the original nomination scroll to allow for further review of his records. They were able to determine with a reasonable degree of certainty that the applicant was not subject in an ongoing

investigation; is not pending adjudication of substantiated adverse information; and has not been found to have any substantiated allegations or formal charges filed against him regarding detainee abuse or the Recruiting Assistance Program investigation.

l. On 29 October 2018, the Secretary of Defense signed a memorandum, which stated effectively immediately, the applicant is retained on the FY17 CPT, ARNGUS, APL CC, recommended promotion list.

m. Special Orders Number 17, issued by the Departments of the Army and the Air Force, National Guard Bureau, Washington, DC, dated 31 January 2019, shows the applicant was promoted to CPT, effective 15 November 2017, with a promotion effective date of 6 June 2014 (DOR as CPT 6 June 2014).

n. Special Orders Number 37, issued by the Departments of the Army and the Air Force, National Guard Bureau, Washington, DC, dated 12 February 2020, shows he was promoted to MAJ, effective 30 January 2020 (DOR as MAJ 30 January 2020).

o. The applicant is currently assigned to Headquarters and Headquarters Company, 1st Battalion, 185th Aviation Regiment, as an S3/Operations Staff Officer.

5. The Chief, Special Actions Branch, NGB, provided an advisory opinion in this case on 13 November 2023 and recommended approval. He stated:

a. The applicant requests a DOR adjustment to 6 June 2014 for promotion to CPT and retroactive payment be processed.

b. The [REDACTED] ARNG provided an email confirming state did not process promotion due to flag; memorandum from Chief of the Officer selection board policy branch directed the SM should be flagged; eTracker screen shot dated 21 March 2022 confirming packet received; [REDACTED] ARNG appointment memorandum dated 28 February 2014; CPT promotion orders dated 6 June 2014; recommendation of promotion dated 5 June 2014; PHA, Height Weight Certification; APFT Card; personnel qualification record; email traffic for FY17 DA board recommendation; and review of law enforcement report dated 18 November 2022 as supporting documents.

c. After review of the applicant's documents provided and given concurrence and supporting documents from the [REDACTED] ARNG, it is the conclusion of this office, that CPT [REDACTED] [applicant] GRAP investigation closeout by CID was excessive. This office recommends a 6 June 2014 DOR adjustment for promotion to CPT.

d. The [REDACTED] ARNG concurs with this recommendation.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.
2. The Board concurred with the conclusion of the advisory official that the evidence supports granting the requested relief. Based on a preponderance of the evidence, the Board determined the applicant's effective date of rank for CPT/O-3 should be changed to 6 June 2014. The applicant should receive any additional pay and allowances he is due as a result of this correction.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army and Army National Guard records of the individual concerned be corrected by showing his effective date of rank for CPT/O-3 is 6 June 2014 and paying him any additional pay and allowances he is due as a result of this correction.

9/18/2024

X

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation (AR) 135-155 (Army National Guard and Reserve – Promotion of Commissioned Officers and Warrant Officers), prescribes the policies, operating rules, and steps governing promotion of Army officers on the Reserve active status list and U.S. Army Reserve warrant officers. Chapter 3 states, in part, when a delay in promotion ends, the promotion orders approval authority will determine if the officer was, in fact, unqualified (as opposed to ineligible) for promotion during all or part of the delay and will adjust the date of rank (DOR) and effective date of promotion accordingly. Information required to support the decision includes the following, as appropriate:

- a. Reason for delay.
- b. Date the case was closed and, if applicable, the date the officer met height/weight standards or passed the Army Combat Fitness Test.
- c. Type of punishment received.
- d. Date all punishment will be commented.
- e. Date that the memorandum of reprimand was directed to be filed in the officer's Army Military Human Resource Record (AMHRR) (not the date the memorandum is actually imposed or filed).
- f. When an officer's promotion suspension is closed favorably and the officer is exonerated of any wrongdoing, or a determination is made that the officer was qualified for promotion during the entire period of delay, the officer will be promoted with the same DOR, effective date (for pay and allowances), and position on the Reserve Active Status List (RASL) that the officer would have received had there been no delay.

3. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity.

- a. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//