

IN THE CASE OF: ██████████

BOARD DATE: 8 February 2024

DOCKET NUMBER: AR20230005277

APPLICANT REQUESTS: reinstatement and payment of the second half of his Reenlistment/Extension Bonus (REB) in the amount of \$10,000.00.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 27 February 2014
- Incentives Manager Letter, 1 August 2022

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 pertinent part, he is owed \$10,000.00 from his bonus in 2014. He remained eligible for his bonus, but due to a number of issues that were outside of his control, the funds were never paid to him.

3. A review of the applicant's available service record reflects the following:

a. On 29 September 2008, he enlisted in the ██████████ Army National Guard (█████ ARNG) for a period of 8 years.

b. On 21 October 2008, he entered active duty for training.

c. On 15 April 2009, he was honorably released from active duty for training and awarded Military Occupational Specialty (MOS) 92A (Automated Logistical Specialist).

d. DA Form 4836, dated 27 February 2014 shows he extended his enlistment with the ██████ ARNG for a period of 6 years. In conjunction with this reenlistment/extension National Guard Bureau (NGB) Form 600-7-3-R-E (Annex R to DA Form 4836 REB

Addendum ARNG) was completed showing the applicant's entitlement to a \$10,000.00 REB incentive for being Duty MOS Qualified, to be paid in two increments (50 percent processed for payment the day after his current Expiration Term of Service (ETS) and 50 percent upon completion of the 4th year anniversary). This form bears Bonus Control Number [REDACTED].

e. DA Form 4836 dated 16 September 2020 shows he reenlisted/extended his enlistment with the [REDACTED] ARNG for a period of 6 years.

f. He continues service with the [REDACTED] ARNG.

4. The applicant provides the Incentives Manager Letter, dated 1 August 2022 showing he was entitled to a previous REB which was never paid to him, Control Number [REDACTED]

5. On 17 October 2023, the NGB, Chief, Special Actions Branch, in conjunction with the DCARNG Office of the Adjutant General, provided an advisory opinion recommending approval of the applicant's request stating:

a. The applicant states that he extended his contract in 2014 and was entitled to a REB of \$10,000.00 but was never paid that bonus. He requests that the ABCMR approve back pay of his REB.

b. His records show that he signed his REB paperwork on 27 February 2014 for a three-year extension with an entitlement of \$10,000.00. The contract was never properly processed and paid due to processing errors by the [REDACTED] ARNG. It eventually was terminated so that he could receive his new bonus for another extension in 2020.

c. Per Annex R to DA Form 4836, the first 50 percent of the REB payment is processed for payment the day after the Soldier's current ETS at the time of signing the extension. When the applicant signed his extension in February 2014, he had 213 days until his ETS, and his first installment of the bonus should have been processed for payment on 29 September 2014. His second installment should have been processed on the fourth-year anniversary of his REB contract start date per Annex R.

d. Based on the applicant's claims and his records, the applicant never received his payment of his REB that was due on 29 September 2014, and there are no irregularities in his records that would have prevented his payment. For these reasons, it is the recommendation of this office that the applicant's request be approved. The [REDACTED] ARNG recognizes that the applicant was never paid his REB of \$10,000.00 even when he remained in good standing. It is recommended that the applicant receive his outstanding payment of his REB from his extension in 2014 that is justly owed.

6. On 20 October 2023, the applicant was provided with a copy of the advisory opinion and afforded 15 days to respond. He did not respond.

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 confirms that errors beyond the applicant’s control led to the failure to pay him the REB he contracted for when he extended his enlistment in 2014. The Board determined the record should be corrected to show payment of the bonus was processed in a timely manner and the applicant should receive the any monies he is owed as a result of this correction.

BOARD VOTE:



<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
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■	■	■	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 payment of the REB he contracted for in 2014 was processed in a timely manner. The individual concerned should be paid any monies he is due as a result of this correction.

6/3/2024


 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, USC, 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. Title 37, USC, section 308 (Special Pay: reenlistment bonus) states the Secretary concerned may pay a bonus under paragraph (2) to a member of a uniformed service who is qualified in a military skill designated as critical by the Secretary of Defense, and reenlists or voluntarily extends the member's enlistment for a period of at least three years in a regular component or the Reserve component of the service concerned. Bonus payments authorized under this section may be paid in either a lump sum or in installments. If the bonus is paid in installments, the initial payment shall be not less than 50 percent of the total bonus amount.
3. National Guard Bureau Selected Reserve Incentive Program (SRIP) 14-01 provides that the REB is processed in 2 installments: 50 percent on the contract start date provided the Soldier is assigned to the appropriate MOS and 50 percent on the 4-year anniversary of the contract start date provided the Soldier is assigned to the same MOS.
4. Title 31, USC, section 3702, is the 6-year barring statute for payment of claims by the government. In essence, if an individual brings a claim against the government for

monetary relief, the barring statute says that the government is only obligated to pay the individual 6 years from the date of approval of the claim. Attacks to the barring statute have resulted in litigation in the U.S. Court of Federal Claims. In the case of *Pride versus the United States*, the court held that the Board for Correction of Military Records (BCMR) is not bound by the barring act, that the BCMR decision creates a new entitlement to payment and the 6 years starts running over again, and that payment is automatic and not discretionary when a BCMR decision creates an entitlement.

//NOTHING FOLLOWS//