

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 16 February 2024

DOCKET NUMBER: AR20230005307

APPLICANT REQUESTS: Exception to Policy (ETP) to be paid the remainder of his Chaplain Loan Repayment Program (CLRP) monies in the amount of \$13,334.00 plus interest.

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

- DD Form 149 (Application for Correction of Military Record)
- Headquarters (HQs), U.S. Army Reserve Command (USARC) Memorandum, Subject: ETP for CLRP, Captain (CPT) P-T- (the applicant) (unsigned)
- HQs, USARC Memorandum, Subject: ETP for CLRP, CPT P-T- (the applicant) (signed)
- E-mail from the applicant
- E-mail from USARC, 13 March 2018
- E-mail from USARC, 19 April 2023

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 effect, he requests an ETP to be paid the remainder of his CLRP in the amount of \$13,334.00. He met the required 3-years of service obligation to receive up to \$20,000.00 in CLRP between the period of 2007 through 2012; however, he only received one payment in the amount of \$6,666.00. He never received the remaining two payments before he was accessed into the Regular Army (RA) in 2015. He requested payment from USARC, who agreed he should have been paid the \$20,000.00 due to no fault of his own. Due to the Barring Act statute of limitations of 6-years being exceeded he was advised by USARC to apply to the Army Review BBoards Agency (ARBA).

3. A review of the applicant's service record shows:

- a. The applicant executed his oath of office and was appointed a Reserve commissioned officer, effective 30 July 2002.
- b. On 2 August 2002, Orders Number C-08-219811, issued by the U.S. Total Army Personnel Command, the applicant was assigned to the U.S. Army Reserve (USAR) Control Group (Officer Active Duty Obligor (OADO)), effective 30 July 2002.
- c. The applicant executed his oath of office and was appointed a Reserve commissioned officer in the rank/grade of first lieutenant (1LT)/O-2, effective 14 June 2007.
- d. On 22 June 2007, Orders Number C-06-720513, issued by the U.S. Army Human Resources Command (HRC), the applicant was assigned to the USAR Control Group (Reinforcement), effective 14 June 2007, in the Area of Concentration (AOC) of 56A (Chaplain).
- e. On 18 September 2007, Orders Number C-09-726940, issued by HRC, the applicant was assigned to a USAR Troop Program Unit, effective 17 September 2007 in AOC 56A.
- f. On 4 December 2007, Orders Number T-12-749834, issued by HRC, the applicant was ordered to active duty for training to attend the Chaplain Basic Officer Leader Course, effective 6 January 2008.
- g. The applicant was honorably released from active duty on 5 April 2008. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed the Chaplain Basic Officer Leadership Course after 3-months of active service.
- h. On 23 February 2009, Orders Number A-02-905716, issued by HRC, the applicant was ordered to active duty for contingency operation for active duty operational support, effective 21 March 2009.
- i. The applicant was honorably released from active duty on 11 September 2009. DD Form 214 shows the applicant completed 5-months and 21-days of active service.
- j. On 14 October 2010, Orders Number C-10-014646, issued by HRC, the applicant was assigned to the USAR Control Group (Individual Mobilization Augmentee (IMA), effective 14 October 2010.
- k. The applicant's service record is void of the original orders which ordered him to active duty.

l. On 10 April 2012, Orders Number A-04-206652, issued by HRC, the applicant was ordered to active duty, effective 7 May 2012.

m. The applicant was honorably released from active duty on 15 April 2012. DD Form 214 shows the applicant completed 1-year, 3-months and 6-days of active service.

n. The applicant executed his oath of office and was appointed a RA commissioned officer in the rank/grade of CPT/O-3, effective 16 April 2012.

o. On 24 August 2012, Orders Number C-08-212450, issued by HRC, the applicant was assigned to the USAR Control Group (Reinforcement), effective 6 May 2012.

4. The applicant provides:

a. HQs, USARC Memorandum dated 24 November 2015, Subject: ETP for CLRP, CPT P-T- (the applicant) (unsigned) which stated his request for ETP was approved. As part of his commissioning in the Army Reserve on 27 March 2007 he was eligible for \$20,000.00 in the CLRP; however, the CLRP written agreement was not executed by his unit at the time of his commissioning due to no fault of his own. His records show he made attempts to process the CLRP as early as 15 August 2008. Therefore, he is eligible to receive \$20,000.00 in CLRP retroactive to 29 October 2008. The applicant was required to submit the required CLRP documents to the Army Reserve CLRP program manager for processing.

b. HQs, USARC Memorandum dated 28 March 2017, Subject: ETP for CLRP, CPT P-T- (the applicant) (signed) reiterates the comments in the Memorandum in paragraph 4a.

c. E-mail from the applicant requesting the remainder of the CLRP payment.

d. E-mail from USARC Education Service Officer dated 13 March 2018 stated it was not recommended to file a Congressional as the Education Team was putting his packet together for him to apply to ARBA. The Education Team had done all they could to override the Barring Act and ARBA was the only agency that could waive it. They assured him that USARC Education Team was going to set him up for success at ARBA.

e. E-mail from USARC dated 19 April 2023 stated the applicant would have to apply to ARBA to waive the Barring Act to request an ETP to be paid is CLRP.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was partially warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

2. The applicant requested an ETP to be paid the remainder of his Chaplain Loan Repayment Program (CLRP) monies in the amount of \$13,334.00 plus interest.

a. The CLRP was/is for \$20,000.00; CLRP; the total amount may not exceed \$20,000.00, the Army will not pay interest on this amount, as that is not covered under the CLRP agreement.

b. The applicant was supposed to receive the CLRP in 3 annual payments, and he only received 1 annual payment.

3. The Board determined the applicant is intitled to the additional 2 CLRP payments.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- a. showing the applicant made timely application for CLRP payments by/within the set anniversary dates.
- b. showing CLPR payments were timely made.
- c. making CLRP payments as appropriate in accordance with these corrections.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to paying interest on the applicant's CLRP contract monies.

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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 10 USC, section 16303 (Loan repayment program: chaplains serving in the Selected Reserve), (a) Authority to Repay Education Loans.-For purposes of maintaining adequate numbers of chaplains in the Selected Reserve, the Secretary concerned may repay a loan that was obtained by a person who:

- satisfies the requirements for accessioning and commissioning of chaplains, as prescribed in regulations;
- holds, or is fully qualified for, an appointment as a chaplain in a reserve component of an armed force; and
- signs a written agreement with the Secretary concerned to serve not less than three years in the Selected Reserve

(b) Exception for Chaplain Candidate Program.-A person accessioned into the Chaplain Candidate Program is not eligible for the repayment of a loan under subsection (a). (c) Loan Repayment Process; Maximum Amount.- (1) Subject to paragraph (2), the repayment of a loan under subsection (a) may consist of the payment of the principal, interest, and related expenses of the loan. (2) The amount of any repayment of a loan made under subsection (a) on behalf of a person may not exceed \$20,000.00 for each three year period of obligated service that the person agrees to serve in an agreement described in subsection (a)(3). Of such amount, not more than an amount equal to 50 percent of such amount may be paid before the completion by the person of the first year of obligated service pursuant to the agreement. The balance of such amount shall be payable at such time or times as are prescribed in regulations. (d) Effect of Failure to Complete Obligation.-A person on whose behalf a loan is repaid under subsection (a) who fails to commence or complete the period of obligated service specified in the agreement described in subsection (a)(3) shall be subject to the repayment provisions of section 303a(e) or 373 of title 37.

3. 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//