

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 March 2024

DOCKET NUMBER: AR20230006608

APPLICANT REQUESTS: correction of his records to reflect payment of his Selective Reserve (SELRES) Officer Affiliation Bonus (OAB) 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)
- U.S. Army Reserve (USAR) Contract Packet
 - Enlistment/Transfer/Appointment Packet Checklist
 - Reserve Components Reservation record
 - DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 1 May 2017
 - DD Form 5091 (Request for Reserve Component Assignment Orders)
 - DA Form 5690 (Reserve Components Career Counselor Interview Record)
 - Army Reserve Deployment Stabilization Statement
 - Officer/Warrant Officer Affiliation Bonus Addendum
 - Orders Number 004-0002, 4 January 2017
 - Officer Record Brief (ORB), 23 January 2017
 - MEDPROS Individual Medical Readiness Sheet
 - Memorandum, Subject: Incoming Transitioning Soldier
 - Personal information sheet
 - DD Form 215 (Correction to DD Form 214, Certificate of Release or Discharge from Active Duty), 22 March 2017
 - Orders Number 080-0016, 21 March 2017
- Memorandum, Subject: Request for Exception to Policy (ETP) for Officer Affiliation Bonus, 10 February 2018
- U.S. Army Reserve Command (USARC) Memorandum, Subject: ETP, 19 March 2018
- Office of the Inspector General (IG) Letter, 14 March 2019

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, his OAB in the amount of \$10,000.00 was not paid to him upon transferring to the U.S. Army Reserve (USAR). The Career Counselor did not indicate the current area of concentration (AOC) being designated for bonus entitlement. The USAR disapproved his entitlement in the AOC of 01A (Officer Generalist).
3. A review of the applicant's available service record reflects the following:
 - a. On 2 November 2005, he enlisted in the USAR as a Cadet in the University [REDACTED] Reserve Officers' Training Corps (ROTC).
 - b. On 24 March 2009, Headquarters, United States Army Cadet Command, Fort Monroe, Virginia, issued Orders Number 83-15-A-0713 ordering him to active duty upon acceptance of his appointment in the USAR.
 - c. On 9 May 2009:
 - (1) The Department of Military Science, University [REDACTED] issued a Memorandum for Appointment as a Reserve Commissioned Officer of the Army.
 - (2) He accepted a Reserve commission and executed an oath of office as an Armor Officer.
 - d. On 4 January 2017, Headquarters, United States Army Garrison, Fort Riley issued Orders Number 004-0002 reassigning him to the U.S. Army transition point for transition processing with an honorable release from active duty and assignment to the USAR Control Group (Reinforcement), effective 1 May 2017.
 - e. On 20 March 2017, he signed the Officer/Warrant Officer Affiliation Bonus Addendum for a bonus of \$10,000.00 with a Reserve obligation of 3 years in Area of Concentration (AOC) 01A (Officer Generalist). Section III (Acknowledgement) shows if serving in a 01A position, he meets bonus eligibility in his current AOC or he agrees to complete AOC training in a bonus eligible AOC within 24 months of affiliation date.
 - f. On 21 March 2017, Headquarters, United States Army Garrison, Fort Riley

issued Orders Number 080-0016 amending Orders Number 004-0002 to reflect assignment to 4th Battalion (Senior ROTC) 414th Regiment, 41st Division vice USAR Control Group (Reinforcement).

g. DD Form 214, ending 1 May 2017 reflects an honorable release from active duty for completion of required active service. Item 12 (Record of Service) shows service from 3 June 2009 to 1 May 2017 for a net active service of 7 years, 10 months, and 29 days.

h. On 2 May 2017, the U.S. Army Human Resources Command (HRC) issued a Memorandum for Appointment as a Reserve Commissioned Officer of the Army.

i. He continues service with the USAR.

4. The applicant provides the following:

a. USAR Contract Packet with the following documents included as supporting evidence:

- Enlistment/Transfer/Appointment Packet Checklist
- Reserve Components Reservation record
- DD Form 214, ending 1 May 2017
- DD Form 5091 showing his assignment and assignment AOC of 01A
- DA Form 5690 showing his future assignment, 3-year commitment, and expiration term of service date of 1 May 2017
- Army Reserve Deployment Stabilization Statement
- Officer/Warrant Officer Affiliation Bonus Addendum
- Orders Number 004-0002, 4 January 2017
- ORB, 23 January 2017
- MEDPROS Individual Medical Readiness Sheet
- Memorandum, Subject: Incoming Transitioning Soldier
- Personal information sheet
- DD Form 215, 22 March 2017
- Orders Number 080-0016, dated 21 March 2017

b. Memorandum, Subject: Request for ETP for Officer Affiliation Bonus, dated 10 February 2018 wherein the applicant requested and was recommended for approval for ETP due to career counselor not indicating current AOC being designated for bonus entitlement. Therefore, through no fault of the Soldier.

c. USARC Memorandum, Subject: Request ETP, dated 19 March 2018, wherein the Chief, Manning Division, provided a reply to the applicant's request for assistance with the OAB payment stating, in effect:

(1) The request for ETP is disapproved. He became affiliated with the USAR on 20 March 2017, for a 3-year term, with a \$10,000.00 OAB, in the AOC 01A, Officer Generalist. The OAB was not paid because the applicant failed to obtain a bonus eligible AOC. Army policy requires Soldiers affiliated into 01A positions to have a primary AOC on the Selected Reserve Incentive Program (SRIP) list as bonus eligible or to agree to reclassify into a new AOC listed on the SRIP. His current AOC of 19A, General Armor, is not bonus eligible. Therefore, he is required to complete training in a bonus eligible AOC by 30 April 2019, to receive payment of the OAB.

(2) He may reference the Army Reserve fiscal year 2017 Officer/Warrant Officer SRIP list, effective 1 November 2016, for a list of bonus eligible AOCs.

d. Office of the IG Letter dated 14 March 2019 wherein the Assistant Inspector General provided a reply to the applicant's request for assistance with the OAB payment stating, in effect, they conducted a thorough review into the issue and was found that his AOC 19A was not bonus eligible and required that you reclassify into a new AOC listed on the SRIP to receive the bonus. He had until 30 April 2019 to complete the required training in a bonus eligible AOC.

5. In the processing of this case, the Office of the Deputy Chief of Staff, G-1, provided an advisory opinion recommending disapproval of the applicant's request stating, in effect:

a. In order to be eligible for the Selective Reserve (SELRES) OAB, an individual in the USAR must meet the Headquarters Department of the Army (HQDA) eligibility criteria published in the current USAR SRIP Policy Guidance in effect on the date the individual makes application for officer appointment/training (enclosed). In addition, the individual must sign an agreement to transfer to a troop program unit position in a critically short officer AOC listed in the current USAR SRIP Policy Guidance.

b. The SRIP is approved annually at the beginning of the fiscal year by the Director of Military Personnel Management (DMPM) on behalf of the Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA (M&RA)). The USAR is authorized to make a mid-year adjustment to eligible AOCs in coordination with the DMPM. The USAR then publishes the SRIP, including any of their own additional policy restrictions for the bonus. At the inception of the bonus the ASA (M&RA) authorized the Chief, Army Reserve (CAR) to be more restrictive in the component-specific policy, allowing them to tailor their bonus policy to the needs of the USAR. Under the HQDA policy a component's aggregate strength for an AOC must be below 90 percent of fill in the aggregate of all grades to be eligible for the bonus. However, as previously stated the CAR has the prerogative to include or exclude any otherwise eligible AOC in the USAR's SRIP Policy Guidance.

c. The applicant's bonus agreement indicates 01A was the critical AOC he agreed to serve in. However, 01A is not an officer's branch AOC, but is a reporting code indicating the officer assigned to the position may be any Army Competitive Category other than a special branch (Officer Generalist). He has pursued payment of the bonus since entering the USAR and on 19 March 2018 he was notified by the Chief, Manning Division, U.S. Army Reserve Command, that 01A was not an eligible AOC for the SELRES OAB (enclosed). He was further advised that to qualify for the bonus he would need to complete training for branch transfer to a bonus eligible AOC prior to 30 April 2019. His AOC was 19A (Armor) when he signed the bonus agreement on 20 March 2017 and he has not trained for, or branch transferred to another branch since entering the USAR.

d. The U.S. Army Reserve Command maintains the position that reporting code 01A was and is not eligible for the SELRES OAB. Therefore, the retention officer who offered the bonus to the applicant did so without authority. Because the USAR programs and executes the dollars and promulgates internal USAR policy for all Army Reserve bonuses (within the parameters of HQDA policy), the Army G-1 cannot compel the payment of the bonus to any individual who was not eligible.

e. The Army G-1 recommends disapproval of the applicant's request since 01A was not an authorized critical skill for the SELRES OAB. While he complied with all terms of the contract offered to him by the retention officer responsible for bonus contracting, he was erroneously offered the bonus.

6. On 17 November 2023, the applicant was provided with a copy of the advisory opinion to provide a response.

7. On 12 December 2023, he provided a rebuttal to the advisory stating, in pertinent part:

a. The Army G-1's recommendation for disapproval of his application is insufficient. The Army Career Counselor who offered and signed the bonus paperwork is a representative of the Army. Whether erroneous or not, the offer was a contract between the Army and himself. He did not have the opportunity or knowledge to understand that the offer presented to him upon signing his commitment with the USAR was a false promise. Retention Officers/Career Counselors are trained in their field to make fair and honest offers to Soldiers, not to lure them in false promises.

b. He fulfilled all requirements of his contract and should be awarded the bonus due to the error being no fault of his own.

c. Major General [REDACTED] recommendation for approval of the bonus in 2018 on

account that it was no fault of his own should hold bearing in this review. An identical case for another Soldier, Major [REDACTED] which the ABCMR approved the OAB in the amount of \$10,000.00, Docket Number AR20220001926.

d. In addition to his rebuttal, he provided the initial supporting documents as evidence to his statement:

- Memorandum Request for Exception to Policy for Officer Affiliation Bonus, dated 10 February 2018
- Memorandum Request for Exception to Policy for Officer Affiliation Bonus - USARC Reply, dated 19 March 2018
- Enlistment/Transfer/Appointment Packet Checklist
- Reserve Components Reservation record
- DD Form 214, ending 1 May 2017
- DD Form 5091
- DA Form 5690
- Army Reserve Deployment Stabilization Statement
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- Orders Number 080-0016, dated 21 March 2017

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and Office of the Deputy Chief of Staff – G-1, Officer Division advisory opinion and executed a comprehensive review based on law, policy and regulation. The Board noted the written agreement explaining the Officer Affiliation Bonus did not indicate whether the applicant's area of concentration (AOC) was designated for bonus entitlement and this was through no fault of the applicant. However, the applicant was subsequently advised of the requirement and informed he needed to complete training for a branch transfer to a bonus eligible AOC in order to be paid the bonus. There is no indication in the record that the applicant attempted to train and transfer to another branch.

2. The applicant claimed the Board granted relief in an identical case (AR20220001926). However, in the prior case, the applicant signed a similar contract then completed

training to re-class into a bonus eligible AOC. The Board granted relief by correcting the record to adjust the applicant's military service obligation. The cases are not the same.

3. The Board ultimately determined the purpose of the bonus is to incentivize retention or transfer of officers in critically short officer AOCs. The applicant was not in such an AOC and did not retrain and transfer to such an AOC despite being advised of the requirement. No error or injustice occurred when he was not paid the bonus.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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, 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. Department of Defense Instruction (DoDI) 1304.34 (General Bonus Authority for Officers) states in:

a. Section 3.1 (General) the Secretaries of the Military Departments may pay a bonus pursuant to the officer bonus program, in accordance with Section 332 of Title 37, USC. Such a bonus is made to persons or officers, as appropriate, to support accession and retention efforts for a designated military specialty, career field, unit, or grade, or to meet some other condition or conditions of service imposed by the Secretary of the Military Department concerned. A member must affiliate as an officer with a Reserve Component of a Military Service. Agree to remain on active duty or in an active status for a specified period as an officer in a Military Service. Transfer between the Regular Component and the Ready Reserve of the same Military Service. Signs a written agreement with the Secretary of the Military Department concerned to serve for a specified period in a designated career field, skill, unit, or grade, or meet some other condition or conditions of service imposed by the Secretary. Successfully completes training and becomes qualified in a designated skill or career field, if completion of such training and technical qualification forms the basis for which the bonus is paid. Qualifies pursuant to any additional eligibility criteria prescribed by the Secretary of the Military Department concerned.

b. Section 3.3 (Reserve Component Affiliation Bonus) the affiliation bonus authorized in accordance with Section 332(a)(2) of Title 37, USC, and implemented by this issuance offers a monetary incentive for an officer to affiliate with the SELRES of a Military Service. The bonus is authorized when an officer affiliates with the SELRES of a Military Service and agrees to serve for a specified period, not less than 3 years, of obligated service in a military skill designated critical by the Secretary of the Military Department concerned or to meet manpower shortages in a SELRES unit or officer pay grade. Additionally, the Secretary of the Military Department concerned may, with the officer's consent, convert the officer to a designated career field or military skill in which there is a shortage of trained and qualified personnel. The bonus is authorized when an officer affiliates with the SELRES of a Military Service and agrees to serve for a specified period, not less than 3 years, of obligated service in a military skill designated critical by the Secretary of the Military Department concerned or to meet manpower shortages in a SELRES unit or officer pay grade. Additionally, the Secretary of the Military Department concerned may, with the officer's consent, convert the officer to a designated career field or military skill in which there is a shortage of trained and qualified personnel. Execute an agreement to serve as an officer in the SELRES for a

service obligation of at least 3 years. The maximum affiliation bonus may not exceed \$10,000 for a minimum 3-year service obligation.

3. Title 10, USC, section 1552 states, the Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army.

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//

