

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 February 2025

DOCKET NUMBER: AR20240004777

APPLICANT REQUESTS:

- Remission or cancellation of debt for overpayment of Foreign Language Proficiency Bonus (FLPB) in the full amount of \$7,490.00
- A personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4187 (Personnel Action)
- DA Form 330 (Language Proficiency Questionnaire), 8 January 2021
- DA Form 4187, 26 February 2021
- Orders Number 057-004, 26 February 2021
- DA Form 330, 13 April 2021
- Memorandum for Record (MFR) - Subject: Appointment of 3d Battalion, 3d Special Forces Group (Airborne) Command Language Program Manager (CLPM), 4 June 2021
- DA Form 4187, 29 June 2021
- Orders Number 180-003, 29 June 2021
- DA Form 330, 25 January 2022
- DA Form 330, 4 April 2022
- DA Form 330, 24 January 2023
- DA Forms 4187, 31 January 2023
- DA Form 330, 13 April 2023
- MFR - Subject: Request for Remission of Indebtedness for [Applicant], 6 June 2023
- MFR - Subject: Request for Remission of Indebtedness for [Applicant], 28 August 2023
- DA Form 3508 (Application for Remission or Cancellation of Indebtedness), 19 September 2023
- Army Military Pay Office Fort Bragg Memorandum - Subject: Cancellation of Indebtedness - [Applicant], 15 September 2023
- DA Form 2823 (Sworn Statement), 6 June 2023

- DA Form 2823, 18 July 2023
- Leave and Earnings Statement (LES), 1-31 August 2023
- DD Form 139 (Pay Adjustment Authorization), 19 September 2023
- U.S. Army Human Resources Command (HRC) Memorandum - Subject: Remission or Cancellation of Indebtedness - [Applicant], 11 January 2024

FACTS:

1. The applicant states:

a. After submitting a remission packet for the Letter of Indebtedness he received on 17 April 2023, HRC only partially approved the remission or cancellation of indebtedness of \$7,490.00, for \$2,496.66. He believes the full amount of \$7,490.00 should be forgiven as every Commanding Officer in his chain of command has approved this error in his favor.

b. When he in-processed 3rd Special Forces Group (SFG) (Airborne (A)) in February of 2021, he spoke with Ms. L_ S_, the LREC/LMAS Program Management/Academic Specialist at the Harriman Language Training Facility, as this was part of in-processing. He explained that he grew up in Greece and is fluent in Greek, and asked if he could receive FLPP for Greek in addition to receiving FLPP for his target language of Modern Standard Arabic (MSA) if he took a Greek Oral Proficiency Interview (OPI). She reached out to Mr. D_ W_, the Database Manager at the time, and asked if Greek was on the Army Special Operations Forces (ARSOF) Strategic Language List (SLL). He said that it was. The applicant then scheduled his first Greek OPI for April 2021 and received a 2+/2+. While maintaining a 1+/1+ in MSA, he proceeded to take the Greek OPI in March 2022 and March 2023, receiving a 3/3 and then a 3+/3+. All Greek DA Forms 330 and FLPB Orders were routed through the proper channels alongside his MSA DA Forms 330 and FLPB Orders.

c. On 17 April 2023, he received an email from Ms. A_ A_, the Incentives and Proficiency Data Analyst at the Harriman Language Training Facility, saying that Greek is not authorized for FLPP, per the 13 November 2019 ARSOF SLL, and that a letter of indebtedness will be generated. She also emailed him the debt remission packet, along with all instructions to put it together. Additionally, she forwarded the applicant an email from Mr. T_ L_, the Assistant Chief of Staff, G3/LREC Senior Incentives and Proficiency Database Analyst, who first said that Greek is not authorized for FLPP, that a letter of indebtedness will be generated, and that the applicant should put together a debt remission packet. Being in a language dependent Military Occupational Specialty (MOS), he went through all the proper channels to add an additional language. He submitted all appropriate documents and was approved by the authorized personnel to test in that language and get paid for it, after being instructed the language was

permitted. Even after taking several tests, everything was routed through those same individuals to initiate his language pay.

d. As a new service member to 3rd SFG (A), he found it necessary to rely on the subject matter experts pertaining to this matter. As a result of the inherent trust given, he is now forced to relinquish funds that were afforded through successful testing for a language that was originally permitted. Due to the failure of the authorized language personnel, he is now feeling like the escape goat for their errors.

2. A review of the applicant's service records show:

a. Having prior enlisted service in the U.S. Navy, he enlisted in the Regular Army, in the rank of sergeant (SGT)/E-5 on 25 July 2018.

b. On 20 May 2019, DA Form 1059 (Service School Academic Evaluation Report) shows the applicant achieved course standards and completed the Army Special Operations Forces Basic Leader Course.

c. On 9 July 2020, DA Form 1059 shows he completed the Special Forces Weapons Sergeant Course and Advanced Leaders Course.

d. On 26 October 2020, Headquarters, U.S. Army Garrison Fort Bragg published Orders Number 300-97, which promoted the applicant to the rank/grade of staff sergeant (SSG)/E-6 and awarded him Primary MOS 18B3P00YY (Special Forces Weapons Sergeant (Airborne)), effective 1 August 2020.

e. The applicant reenlisted for 4 years on 10 December 2020 and 6 years on 20 February 2024.

f. On 30 November 2024, Department of the Army published Order Number 0010372213.00, which promoted the applicant to the rank/grade of sergeant first class (SFC)/E-7, effective 1 December 2024.

g. He is currently serving on active duty.

3. In support of his petition to the Board, the applicant provides:

a. DA Form 4187 undated, showing he requested FLPB for AD [Arabic Modern Standard].

b. DA Form 330 dated 8 January 2021, which shows he was administered a language proficiency test for the language of Arabic Modern Standard on 7 January 2021.

c. DA Form 4187 dated 26 February 2021 showing his request for FLPB pay in Arabic Modern Standard was approved.

d. Orders Number 057-004 dated 26 February 2021, published by Headquarters, 3rd SFG (A), which shows the applicant was awarded FLPB in control language (CLANG)/PLANG of AD/Arabic-Modern Standard at the amount of \$150.00 (Payment List "A") at the OPI 1+ level, effective 17 February 2021, with a termination date of 6 January 2022. The additional instructions state:

(1) The applicant is assigned to military duties requiring proficiency in a required language and is performing the duties of the position. The applicant is responsible for starting and continuing FLPB. FLPB will terminate within 30 days of termination date above.

(2) The applicant must provide the CLPM a copy of a Defense Language Proficiency Test (DLPT) or OPI to start or continue FLPB pay. Soldier may incur a debt for over payment.

e. DA Form 330 dated 13 April 2021, which shows he was administered a language proficiency test for the language of Greek on 2 April 2021.

f. MFR - Subject: Appointment of 3d Battalion, 3d SFG (A) CLPM, dated 4 June 2021, which appointed CPT E_ K_ the duty of CLPM, effective immediately.

g. DA Form 4187 dated 29 June 2021, which shows the applicant requested to be awarded FLPB for the language of Greek.

h. Orders Number 180-003 dated 29 June 2021, published by Headquarters, 3rd SFG (A), which shows the applicant was awarded FLPB in CLANG/PLANG of GR/Greek at the amount of \$300.00 (Payment List "A") at the OPI 2+ level, effective 2 April 2021, with a termination date of 6 January 2022. The additional instructions state: The applicant is assigned to military duties requiring proficiency in a required language and is performing the duties of the position. The applicant is responsible for starting and continuing FLPB. FLPB will terminate within 30 days of termination date above. Soldier must provide the CLPM a copy of a DLPT or OPI to start or continue FLPB pay. Soldier may incur a debt for overpayment.

i. DA Forms 330 showing on:

- 13 January 2022, he was administered a language proficiency test for the language of Arabic – Modern Standard
- 29 March 2022, he was administered a language proficiency test for the language of Greek

- 9 January 2023, he was administered a language proficiency test for the language of Arabic – Modern Standard

j. DA Forms 4187 dated 31 January 2023, which show:

(1) The applicant requested FLPB pay in accordance with (IAW) the Department of the Army Pamphlet 11-8, Table 6-1 or 6-2, at a rate of \$400.00, effective 29 March 2022 through 31 March 2024, for the language of Greek based on his OPI results of 3 taken on 29 March 2022.

(2) The applicant requested FLPB pay at a rate of \$150.00, effective 13 January 2022 through 12 January 2023, for the language of Arabic-Modern Standard based on his OPI results of 1+ taken on 13 January 2022.

k. DA Form 330 dated 13 April 2023, which shows he was administered a language proficiency test for the language of Greek on 29 March 2023.

l. Headquarters, 3rd SFG (A) MFR - Subject: Request for Remission of Indebtedness for [Applicant], dated 6 June 2023, wherein, the commander stated:

(1) While in-processing at the Harriman Language Training Facility, the applicant asked if he could receive FLPP for Greek. He was told that Greek is on the current ARSOF SLL and that as long as he maintained a 1 +/1 + in his target language of MSA, he would be eligible to receive FLPP for Greek. He took the Greek OPI in April 2021, March 2022, and March 2023, while maintaining a 1+/1+ in MSA. All DA Forms 330 and FLPB Orders were routed through the proper channels to Defense Finance and Accounting Service. In April 2023, he received an email from the Harriman Language Training Facility stating Greek was never on the ARSOF SLL and that a letter of indebtedness will be generated for all FLPP received from Greek. Please see the attached sworn statement.

(2) Based on the above information and detail, he approved the remission of the applicant's debt. He recommended payments made by the applicant be suspended pending a decision made by HRC.

m. MFR - Subject: Request for Remission of Indebtedness for [Applicant], dated 28 August 2023, wherein, the commander reiterated the previous commander's MFR dated 6 June 2023.

n. DA Form 3508 dated 9 September 2023, which shows, the applicant requested remission or cancellation of debt in the amount of \$7,490.00 based on "injustice". His chain of command recommended approval.

o. Army Military Pay Office (AMPO) Fort Bragg Memorandum - Subject: Cancellation of Indebtedness - [Applicant], dated 15 September 2023, which shows, the Director, 82nd AMPO, recommended the indebtedness be cancelled in the amount of \$7,490.00 based on injustice.

p. DA Form 2823 dated 6 June 2023, wherein, the applicant outlined the events and circumstances surrounding his debt. He also reiterated his statement to the Board.

q. DA Form 2823 dated 18 July 2023, wherein, CPT E_ K_ stated, he asked Mr. W_ if service members were entitled to payment in multiple languages and Mr. W_ responded by phone and stated, "regardless of language, 18-series service members were entitled to additional compensation as long as they maintained currency in their control language and received at least a 1+/1+ in the additional language.

r. LES period covered 1-31 August 2023, which shows, in pertinent part:

- FLPP entitlement in the amount of \$150.00
- Debt deduction in the amount of \$406.67
- Military Pay/Allowances debt balance in the amount of \$3,300.00
- Total indebtedness in the amount of \$3,783.33

s. DD Form 139 dated 19 September 2023, which shows the applicant has a debt for overpayment of Foreign Language Pay in an amount of \$7,490.00 for the period of 31 December 2021 to 31 December 2022.

t. HRC Memorandum - Subject: Remission or Cancellation of Indebtedness - [Applicant], dated 11 January 2024, wherein, the HRC, Chief, Incentives Pay Branch stated:

(1) The application for remission or cancellation of indebtedness for the applicant in the amount of \$7,490.00 has been reviewed and is partially approved for \$2,496.66.

(2) The applicant can apply to the Army Board for Correction of Military Records (ABCMR) for further review if he feels an injustice occurred. Guidance for this process can be found in AR 15-185 (ABCMR). This response does not imply that an error or injustice occurred. Neither will mere submission of the request guarantee a formal hearing or result in any favorable action taken. Each case is considered on the evidentiary information provided with the final determination based on the merits of the individual case.

(3) If the remitted monies are found at a later date to be public funds that were obtained or converted to own use through fraud, larceny, embezzlement, or any other unlawful means, the debt will be reinstated.

4. On 3 January 2025, the Chief, Incentives Pay Branch, HRC, provided an advisory opinion for this case and stated:

a. This response is in reply to an advisory opinion request to review the remission or cancellation of indebtedness request submitted by the subject to HRC on 20 September 2023, and the decision rendered on 11 January 2024.

b. The package the applicant submitted to HRC for a FLPB debt consisted of fourteen pages and administratively met requirements outlined in Army Regulation (AR) 600-4 (Remission or Cancellation of Indebtedness) and DA Pamphlet 600-34. The documents submitted to the ABCMR consisted of thirty-one pages and contained information not available to the decision authority at that time. Those additional documents contained numerous errors to include incorrect references, missing signatures and dates.

c. A sworn statement was included from Captain E_ K_, the Battalion CPLM at the time, who stated he and the service member relied on a phone conversation to ensure Greek was on the current ARSOF SLL instead of reviewing the current list available to both at the time. In that phone conversation, he states there was mention of Spanish, but not Greek specifically.

d. There is no indication to show the applicant inquired or verified if Greek had possibly been removed from the ARSOF SLL for subsequent yearly applications to continue the incentive pay.

e. Factors used to determine injustice in this case included the applicant's awareness of policy and procedures, Military Occupational Specialty (MOS), rank and years of service in accordance with AR 600-4. The decision to approve a partial amount in this case has not changed.

5. On 7 January 2025, the applicant was provided with a copy of the HRC advisory opinion for comments or rebuttal. 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 was warranted.

2. The Board carefully considered the applicant's contentions, his record of service, his requests for FLPP entitlements in more than one language, his debt for overpayment of Foreign Language Pay and his request for remission of indebtedness military record with a recommended approval by the Director, 82nd AMPO. The Board considered the evidence of his maintained proficiency if Greek, the advisory opinion from the Chief,

Incentives Pay Branch, HRC that reflected partial relief and the sworn statement from the Battalion CPLM. The Board found the applicants argument persuasive. Based on a preponderance of evidence, the Board determined that the denial of complete remission of his \$7,490.00 debt resulting from an overpayment of Foreign Language Pay was unjust.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

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 remitting the remaining portion of his \$7,490.00 debt from an overpayment of Foreign Language Pay (less the partially approved amount of \$2,496.66) and refunding any monies already recouped.

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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. AR 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, the regulation states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states that 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.

2. AR 11-6 (Army Foreign Language Program) prescribes policies, assigns responsibilities, and delegates authorities for the Army Foreign Language Program to include the use of Soldiers, Department of the Army Civilians, and contract linguists to provide linguistic support to Army missions. Chapter 5 (Army Special Operations Forces Foreign Language Program), paragraph 5-12 (Criteria for individual Army special operations forces Soldier eligibility for the foreign language proficiency bonus) states, a Soldier is eligible to receive FLPB if they meet all the following conditions: Regular Army Soldiers must —

a. Be on active duty and entitled to basic pay.

b. Area of Concentration (AOC) and Career Management Field 18, 37, AOC 38S officers and MOS 38R, 38W, and 38Z Soldiers must complete Special Operations Language Training and successfully pass the DLPT or OPI with minimum scores of L1+/R1+ or S1+ at USAJFKSWCS or associated school. FLPB eligibility begins upon completion of this criteria.

c. Be certified proficient within the past 12 months (24 months if the linguist scores 3/3 or higher on their DLPT/OPI) in a foreign language listed on the ARSOF Army Strategic Language List (ASLL) the Deputy Chief of Staff, G-2 publishes annually. All Soldiers trained at government expense must be proficient in their Control Language before they are eligible for additional FLPB. Soldiers assigned to a special mission unit are exempt from this rule.

3. AR 600-4 (Remission or Cancellation of Indebtedness) provides policy and instructions for submitting and processing packets for remission or cancellation of indebtedness to the Army. Requests for remission or cancellation of indebtedness must be based on injustice, hardship, or both. In accordance with the authority of Title 10, U.S. Code (USC), section 7837 and/or Title 32, USC section 710(c), the Secretary of

the Army may remit or cancel a Soldier's debt to the U.S. Army if such action is in the best interests of the United States. In pertinent part:

a. Paragraph 13 (Determining injustice or hardship) states, the Assistant Secretary of the Army (Manpower and Reserve Affairs), Deputy Chief of Staff, G-1, and the Command General, HRC, will follow the following the standards in this regulation to determine injustice or hardship on the basis of the information received. The following factors will be considered:

(1) The Army's policy in the area of indebtedness to the Army (for example, excess leave or basic allowance for housing while living in Government housing).

(2) The Soldier's awareness of policy and procedures. Past or present MOS, rank, years of service, and prior experience are taken into consideration.

(3) The Soldier's monthly income and expenses.

(4) The Soldier's contribution to the indebtedness to the Army by not having the situation corrected. e. Additional income or assets (for example, spouse's salary, savings account, and bonds).

b. Paragraph 14 (Additional factors for consideration in determining injustice) states, the application packet must contain evidence that either — (1) The applicant did not know, and could not have known, of the error; or (2) The applicant inquired of a proper authority and was told that the payment was correct.

4. Title 10, USC, section 7837 (Settlement of accounts: remission or cancellation of indebtedness of members) states, the Secretary of the Army may have remitted or cancelled any part of the indebtedness of a person to the United States or any instrumentality of the United States incurred while the person was serving as a member of the Army, whether as a Regular or a Reserve in active status, but only if the Secretary considers such action to be in the best interest of the United States.

//NOTHING FOLLOWS//