ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 6 March 2025

DOCKET NUMBER: AR20240005336

APPLICANT REQUESTS:

- cancellation of his remaining debt in the amount of $59,137.44; and
- reimbursement of the amount of the debt he paid

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record).

FACTS:

1. The applicant states:

a. The Army Finance Office at Joint Base Lewis-McChord (JBLM), WA, imposed upon him an indebtedness of $65,708.27 resulting from Basic Housing Allowance (BAH) and Family Separation Allowance (FSA) entitlements he received during his second tour in Korea from December 2017 - December 2019. Despite the Camp Humphreys finance office approving those entitlements with no issues during his second tour in Korea. The JBLM finance office claimed that he was not authorized to receive them during that tour. If any mistakes were made, they were made by the finance office and not him. The chief of finance at the JBLM Military Personnel Division (MPD) imposed the indebtedness and notified him of it during his out-processing at JBLM in October 2021 as he was preparing to depart to Korea for his third tour there. She told him that he could submit a request for remission of the indebtedness and that she would email him the necessary packet of documents to submit the request. However, she never sent them.

b. Upon arrival to Korea, he immediately contacted the finance office at Camp Casey, as he was stationed in Yongsan, and they provided him the requirements to submit the debt remission packet. He completed the packet and submitted it in June 2022. He received a response a year and a half later from the Deputy Chief of Staff (DCoS) G1, at Headquarters, Department of the Army (HQDA), which was delivered to him by email by Army Human Resources Command (HRC) on 26 December 2023. In this response (signed on 24 May 2023 but not received by him until December), the Deputy Chief of Staff agreed with him that the indebtedness was unjust and would cause him financial hardship, but he was only remitted 10 percent of the indebtedness.

This minor remission still left him with an indebtedness of $59,127.43. That appeal for remission of the indebtedness served as the only administrative remedy he had available, and he has therefore exhausted any means of appeal except for appeal to the Army Board for Correction of Military Records (ABCMR).

c. He is currently on selective continuation (SELCON) with a mandatory retirement date of 31 October 2024. Because the Army Finance Office told him they intended to start collecting the indebtedness back at a rate over $5,400.00 per month until his retirement date, he was forced to refinance his mortgage to obtain the money to pay off the debt, which he paid off in full on 9 April 2024. This refinancing has increased his overall debt by more than $130,000.00 and has resulted in his mortgage payment increasing by over $1,000.00 per month. As a result, his family and he have found themselves at the worst level of financial hardship they have experienced during their time as a family over the last 6 years. The stress and financial difficulties resulting from the imposition of this debt have led to his wife being sick, her whole body in pain, her throat continually swollen, and difficulty in speaking that started in February and continue to this day.

d. The applicant and his wife are also in a continual state of conflict and depression because of the Army finance office's unjust decision and refusal to acknowledge or correct it. This indebtedness is completely unjust, as noted by the HQDA G-1 DCoS, but the miniscule reduction of 10 percent, as noted in the response to his appeal, has done nothing to relieve him of severe financial hardship. He requests that the indebtedness be completely removed from his records and that he be reimbursed for the $59,127.43 that he was unjustly forced to pay.

e. He went to Korea in October 2021 for the third time in 6 years to fill a crucial joint billet. During his previous 2 assignments to Korea, he left dependents in the United States (U.S.), receiving BAH/FSA during both assignments for his dependents. His wife and 3 children remained in the U.S. during his first tour to Korea (June 2015 - May 2016), as it was a dependent-restricted tour. He then returned to Fort Lee, VA, for his next assignment. He got divorced in August 2017 and provided Ms. M_ P_, his unit's administrative clerk, with a copy of the signed divorce decree. She processed it through the post MPD and the post finance office. His permanent change of station (PCS) orders for his second tour to Korea in December 2017 showed him as being single and his 3 children as his dependents remaining in the U.S. The tour was originally for 1 year, but he got married during the tour and extended the assignment to 2 years.

f. This indebtedness is unjust for two reasons. First, he understands that he received the money during the time indicated, and he spent it as would be expected of a service member receiving monetary entitlements for overseas living expenses and having dependents back in the U.S. that could not be present for the overseas assignment. Although he is familiar with the military pay system, his experience with overseas assignments in foreign countries did not begin until June 2015, after he had over 20 years of service. He was not aware of how financial procedures involving dependents remaining in the United States worked, and he did not question the finance offices in Fort Lee, VA and Camp Humphreys, Korea, when their finance personnel told him what entitlements he would receive.

g. He never had an issue with military finances in his entire time in the Army until now, so he held a great amount of trust over the years in finance offices to ensure that he received the proper entitlements at each duty station. He never attempted to find ways to increase the entitlements he would receive at a new duty station or try to "game the system" in any way. He took finance offices at their word when they told him that he would receive certain entitlements. For that reason, he assumed the JBLM finance office would confirm the same BAH/FSA entitlements for his dependents before his third tour to Korea in October 2021. He was shocked to find out he would not receive a BAH entitlement for that assignment, because the finance office informed him that he would receive BAH only if his spouse remained in the U.S. However, his wife was accompanying him on this assignment.

h. He had been under the impression that service members received BAH for dependents who remained in the U.S., as that was what happened to him during his second Korea assignment from 2017 - 2019. He did not know that the BAQ Dependent: Spouse entry on his LES meant that he was receiving BAH solely because he left his spouse back in the U.S. until informed of it at JBLM in October 2021, and he also did not know that the Fort Lee finance office had failed to change that entry from Spouse to Child in their financial system before he left for Korea for his second assignment there. Second, and most important, he finds it grossly unjust to be notified of a massive amount of indebtedness more than two years after he arrived at JBLM from Korea and more than four years since he conducted in-processing at Camp Humphreys to start his second assignment of Korea.

i. The Fort Lee, Camp Humphreys, and JBLM finance offices knew for over 4 years about his family situation and never gave him any indication whatsoever that the BAH/FSA that he received from 2017 - 2019 in Korea was not authorized. Those offices had more than enough time to identify the issue and warn him of it while he was still serving his second assignment, especially since he remarried during that time. They had access to his financial records and should not have initiated and approved entitlements for him that were not authorized by regulation, but they did anyway. The Camp Humphreys finance office found no issues when he conducted in-processing there in December 2017 and approved the same BAH with dependents, FSA, and OHA without dependents that he received during his first assignment to Korea.

j. When he arrived to JBLM from Korea in December 2019, the clerks at the finance office apparently saw nothing wrong with his records, as they entered his information into the JBLM financial system with no questions asked nor warnings given. Just like he did every other time he completed a PCS move in his career, he took the finance office at their word that everything was fine. When he arrived to the JBLM finance office to conduct out-processing in October 2021, the finance clerks were prepared to clear him from the post with no issues, and the only reason that he ended up being warned about possible indebtedness was that he requested confirmation that he would receive the same BAH/FSA that he received on his previous two assignments to Korea. If he had not said anything, the finance clerks would have cleared him with no issues. He would then have arrived to Korea expecting the same BAH/FSA that he received in Korea twice before and would have no doubt received the shock of his life that he would not receive either one at all, despite his dependents left behind in the United States, as his spouse accompanied him to Korea this time.

k. Additionally, when he arrived at his third assignment to Korea on 27 October 2021, he conducted in-processing through Camp Humphreys for the third time in his career, and he had no issues with finance yet again. The clerks entered his information into the financial system with no questions nor warnings. If he had not done the right thing and contacted Camp Casey finance with the indebtedness shown on his LES, the situation would have no doubt continued the same as before.

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

a. Having prior Army enlisted and Cadet service, DA Form 71 (Oath of Office – Military Personnel) shows he was appointed as a Reserve commissioned officer and executed his oath of office on 30 April 2004.

b. On 14 March 2014, HRC published Order Number 073-028, which promoted the applicant to the rank/grade of major/O-4, effective 1 April 2014.

c. On 20 February 2015, the U.S. Army Combined Arms Support Command, Fort Lee, VA, published Orders Number 051-00240, which assigned the applicant to Camp Humphreys, Korea, with a report date of 29 June 2015. In pertinent part, the additional instructions state, "Dependents: Yes." The applicant is choosing to do an "unaccompanied" tour and for his dependent(s) to remain where they currently reside Prince George, VA 23875. Dependent(s) are as follows: B_ , M_ R_ (spouse, XX May [redacted]), B_, A_ T_ (daughter, XX September [redacted]), B_, M_ R_ (child, XX May [redacted]), B_, G_ R_ (daughter, XX June [redacted]).

d. On 9 February 2016, Headquarters, U.S. Army Garrison-Daegu (Korea), published Orders Number 040-4302, which assigned the applicant to Fort Lee, VA, with a report date of 29 June 2016. In pertinent part, the additional instructions state, Dependents: Yes. The applicant was authorized travel to the designated location Prince

George, VA 23875 to assist in the movement of dependents, household goods, and privately owned vehicle (POV) to next permanent duty station.

e. On 4 August 2017, a Circuit Court of Prince George County Final Decree of Divorce shows the applicant divorced his wife and ended his marriage to M_ R_ B_.

f. On 28 September 2017, the U.S. Army Combined Arms Support Command Fort Lee, VA, published Orders Number 271-00276, which assigned the applicant to Osan Air Base, Korea, with a report date of 15 October 2017. In pertinent part, the additional instructions state:

(1) Dependent(s): Yes. The applicant has elected to do an unaccompanied tour of 12 months and dependents will remain where they currently reside in Prince George, VA. Dependents: B_ A_ (XX September [redacted]), B_ G_ (XX June [redacted]) and B_ M_ (XX May [redacted]).

(2) Mandatory Finance Briefing: The applicant must attend a mandatory finance briefing no earlier than 30 days prior to departure. Briefings are held each Wednesday, 0830 hours, Soldier Support Center, Building 3400, in the auditorium. Bring five copies of your orders to the briefing. Non-attendance by Soldiers requiring a travel advance will delay payment and clearance through finance.

g. On 13 October 2017, Orders Number 271-00276 was amended by changing the Report Date to 15 December 2017 and Available Date to 15 November 2017.

h. On 8 May 2018, a Marriage Certificate shows he married J_ L_.

i. On 12 September 2019, Pacific Region, U.S. Army Garrison-Humphreys MPD, published Orders Number 255-3202, which assigned the applicant to JBLM Lewis, WA, with a report date of 3 January 2020. In pertinent part, the additional instructions state: Dependent: Yes. The applicant is authorized to return to Prince George, VA 23875 to relocate dependents, household goods, and POV from the designated location to next permanent duty station.

j. On 17 September 2019, Pacific Region, U.S. Army Garrison-Humphreys MPD, published Orders Number 260-3202, which amended Orders Number 255-3202 by changing the additional instructions to read: “(a) Dependents: Yes. Dependents will remain where they currently reside in Prince George, VA. Dependents: B_ G_ R_ (Child) (XX June [redacted]), B_ M_ R_ (Child) (XX May [redacted]). Acquired Dependent(s): L_ J_ (Spouse), S_ H_ (Child) (XX August [redacted]), S_ J_ (Child) (XX July [redacted]). In accordance with USFK55-29 and Army Regulation 55-46, Chapter 1, Paragraph 1-14, C(2), Non-Command Sponsored, acquired dependent(s) travel and travel expenses from Korea to Soldier's next duty station is at the Soldier's personal expense. The

Soldier is authorized reimbursement from the closest aerial port of debarkation to Soldier's next duty station. Soldier must coordinate all travel arrangements for acquired dependent(s) through the losing station's Commercial Travel Office. In accordance with Department of Defense 4515.13-r, acquired dependent(s) are eligible for space required travel at personal expense as long as acquired dependent(s) are in compliance with U.S. Immigration and Naturalization requirements and policies."

k. On 21 January 2020, DA Form 5960 (Authorization to Start, Stop, or Change Basic Allowance for Quarters (BAQ), and/or Variable Housing Allowance (VHA)) shows the applicant requested to start with dependents BAH for duty location JBLM, WA 98433, effective 3 January 2020. He indicated he was married on 8 May 2018 and listed his spouse and daughters (H_ S_ and J_ S_) as dependents.

l. On 18 August 2021, the Directorate of Personnel and Family Readiness JBLM, WA, published Orders Number 230-010, which assigned the applicant to Yongsan, Korea, with a report date of 30 October 2021. In pertinent part, the additional instructions state: "Dependents: Yes." The applicant was authorized shipment of household goods in accordance with the Joint Travel Regulations at the "without dependent rate at government expense." His dependents would be furnished a travel authorization if they were authorized to travel to a designated location or to his new permanent duty station at Government expense.

m. On 24 May 2023, the Deputy Chief of Staff G-1, Lieutenant General D_ F_ S_, carefully reviewed and considered the applicant's application for remission or cancellation of indebtedness in the amount of $65,708.27 and stated:

(1) Based on factors bearing upon hardship and/or injustice listed in Army Regulation 600-4, the applicant's application is approved in part by cancelling the amount of indebtedness by $6,570.83. The Deputy Chief of Staff G-1 determined that collection of this amount would be an injustice and/or hardship, and cancellation of this portion of the debt is in the best interest of the United States.

(2) This action results in a residual debt of $59,137.44, which will be charged to the applicant. HRC will inform the applicant and the Defense Finance and Accounting Service of this decision.

n. The applicant is currently serving on active duty. He did not provide a copy of the remission or cancellation of indebtedness packet.

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 executed a comprehensive and standard review based on law, policy and regulation. One potential outcome was to grant relief based on the case issues of the case. However, upon review of the applicant's petition, available military records, and the Deputy Chief of Staff G-1, advisory opinion, the Board concurred with the advising official's approval in part by cancelling the amount of indebtedness by $6,570.83. The Deputy Chief of Staff G-1 determined that collection of this amount would be an injustice and/or hardship, and cancellation of this portion of the debt is in the best interest of the United States.

2. The Board noted the applicant's contentions that the debt resulted from Basic Allowance for Housing (BAH) and Family Separation Allowance (FSA) entitlements received during his second tour in Korea from December 2017 to December 2019, which were approved without issue by the Camp Humphreys finance office. Asserting that any errors were made by the finance offices not by him and that he acted in good faith based on guidance provided at multiple duty stations. The Board acknowledged the applicant's long and honorable service, his repeated overseas assignments, and the financial and emotional toll this situation has caused, the Board must also consider the regulatory framework governing entitlements and debt remission. The Deputy Chief of Staff G-1 previously reviewed the applicant's request and determined that partial cancellation was warranted based on hardship and injustice but affirmed the validity of the remaining debt.

3. The Board found no evidence of administrative error or misapplication of policy that would justify full cancellation or reimbursement. The applicant's reliance on finance offices and lack of awareness regarding entitlement eligibility, while understandable, does not absolve him of responsibility for overpayments received. Moreover, the delay in notification, while unfortunate, does not negate the underlying regulatory violation. In light of these considerations, and the prior partial relief already granted, the Board determined the remaining debt is valid and not entitled to cancellation. Therefore, the Board denied relief for full cancellation and reimbursement.

BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
:	XXX	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	:	XXX	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 //SIGNED//

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. Army Regulation (AR) 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 Army Board for Correction of Military Records (ABCMR). In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.

2. 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 Commanding 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 Military Occupational Specialty, 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.

(5) 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.

3. 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.

4. Department of Defense, Financial Management Regulation (FMR) Volume 7A, Chapter 26, provides in pertinent part:

a. Paragraph 5.0 (Basic Allowance for Housing (BAH)), BAH is paid for housing within the United States. Assignment to Government quarters affects a Service member's eligibility for BAH. A housing allowance, other than BAH-Partial or BAH-Diff, is not authorized for a Service member who is assigned to Government quarters appropriate to the Service member's grade, rank, or rating and adequate for the Service member and dependents, if any. See section 8.0 for rules regarding assignment to Government quarters.

b. Paragraph 5.1 (BAH Rate and Determination) states (1) The BAH rate is based on median housing costs in the Military Housing Area (MHA) and is paid independently of a Service member's actual housing costs. (2) The Office of the Under Secretary of Defense, Personnel and Readiness OUSD (P&R) determines adequate housing costs in an MHA for all Service members authorized BAH. OUSD (P&R) bases the determination for housing allowances upon the costs of adequate rental housing for civilians with comparable income levels in the same area. (3) An adjustment in the BAH rates due to an OUSD (P&R) redetermination of housing costs in an MHA takes effect with the pay raise each year. (4) An MHA is defined geographically by zip code within the United States. Major military population areas are further identified by a combination of two-digit code for the state and three-digit numerical designation within the state. For small military population areas, zip codes are aggregated into areas of similar housing cost and designated as county cost groups.

5. FMR Volume 7A, Chapter 27, provides in pertinent part:

a. Family Separation Allowance (FSA) is payable to members with dependents and a member married to another member of the uniformed services regardless of any other dependency status. FSA is payable in addition to any other allowance or per diem, to which a member may be entitled. The member, however, may not receive more than one payment of FSA for the same period, even though qualified for FSA-Restricted, FSA-Ship, and FSA-Temporary. Members must complete a DoD (DD) Form 1561 (Statement to Substantiate Payment of Family Separation Allowance) to substantiate entitlement to FSA.

b. A dependent child(ren) is an unmarried child(ren) of the member who is in the legal custody of the member. Legal custody includes a circumstance in which the member has been awarded joint physical, and legal custody of a dependent child(ren) as a result of a court ordered custody agreement or finalized divorce decree, which provides that the child(ren) physically reside with the member on an equal basis (no less than 14 days during a month) as compared to the time the child(ren) reside(s) with the former spouse, and the member's actual physical custody of the child(ren) is precluded due to an enforced family separation described under paragraph 2.3. Such a custody arrangement must be stipulated in the signed court order or divorce decree, subject to the verification by the Secretary of the Military Department concerned. See subparagraph 3.1.3.

//NOTHING FOLLOWS//