

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 February 2025

DOCKET NUMBER: AR20240006110

APPLICANT REQUESTS: to receive unpaid portion of Officer Affiliation Bonus (OAB).

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

- DD Form 149 (Application for Correction of Military Record)
- National Guard Bureau (NGB) Form 62 (Application for Federal Recognition as an Army National Guard (ARNG) Officer or Warrant Officer and Appointment as a Reserve Commissioned Officer or Warrant Officer of the Army in the Army National Guard of the U.S.), 27 October 2009
- Written Agreement – Officer/Warrant Officer Affiliation Bonus Addendum, 2 November 2009

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 that she received a letter from the NGB advising her that a review of her records within the Guard Incentive Management System revealed that she had not received payment of her OAB in its entirety. She contests that she never received justification for why payment of the second half of this incentive was not processed. However, she does recall being advised that she was not eligible for the remaining balance due to her acceptance of a military technician position.
3. A review of the applicant's available service records reflects the following:
 - a. On 30 May 1998, the applicant was appointed a Reserve commission and subsequently ordered to active duty.
 - b. On or about 16 September 2001, the applicant transferred into the ARNG.

c. On 9 August 2005, the NGB issued Special Orders Number 235 AR announcing the withdrawal of the applicant's Federal recognition within the ARNG and announcing her transfer into the U.S. Army Reserve (USAR), effective 10 July 2005.

d. On 27 October 2009, the applicant requested appointment as a commissioned officer within the GAARNG with entitlement to a \$10,000.00 OAB to be paid in 2 installments: 50 percent upon in-processing in the ARNG and 50 percent on the third year anniversary of her affiliation in the ARNG. The written agreement provides understanding that the applicant was not affiliating to qualify for a military technician position where membership in a Reserve component is a condition of employment.

e. On 30 April 2010, the NGB issued Special Orders Number 83 AR announcing the applicant's initial appointment in the GAARNG, effective 15 December 2009.

f. On 11 January 2023, the applicant was issued a Notification of Eligibility for Retired Pay for Non-Regular Service (20 Years) letter.

g. On 15 January 2025, the NGB issued Special Orders Number 18 AR announcing the withdrawal of the applicant's Federal recognition in the ARNG and announcing her transfer into the Retired Reserve, effective 1 January 2025.

4. On 16 January 2025, the NGB, Chief, Special Actions provided an advisory opinion recommending disapproval of the applicant's request noting that she previously received the first payment of \$5,000.00 on 6 August 2010. Her second payment was cancelled and her entitlement to the OAB was terminated, effective 26 September 2011, with recoupment of \$833.00 due to her acceptance of a military technician position on 27 September 2011. In accordance with National Guard Regulation (NGR) 600-7 (Selected Reserve Incentive Programs), paragraph 1-25 (7) if Soldier accepts an indefinite position as a military technician, where membership is a condition of employment, termination is effective the day prior to the start date.

5. On 16 January 2025, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments. As of 31 January 2025, the applicant has not responded.

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. Upon review of the applicant's petition, available military records and the National Guard Bureau (NGB), Chief, Special Actions Branch advisory opinion, the

Board concurred with the advising official recommendation for disapproval finding she previously received the first payment of \$5,000.00 on 6 August 2010. Her second payment was cancelled and her entitlement to the OAB was terminated, effective 26 September 2011, with recoupment of \$833.00 due to her acceptance of a military technician position on 27 September 2011.

2. The Board found the applicant entered into a written agreement on 27 October 2009 for a \$10,000.00 OAB to be paid in two installments, contingent upon her continued eligibility. In accordance with National Guard Regulation (NGR) 600-7, paragraph 1-25(7), incentive eligibility is terminated the day prior to the start date of an indefinite military technician position when membership in a Reserve component is a condition of employment. The Board noted, the applicant's written agreement explicitly acknowledged this condition, and her acceptance of the technician position triggered termination and partial recoupment of the bonus. The Board agreed the termination was consistent with regulatory guidance and the terms of the incentive contract. Therefore, the Board determined there was no error or injustice and denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	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. 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. NGR 600-7 (Selected Reserve Incentive Programs), governs incentive policies, procedures, and eligibility criteria for persons entering into an incentive agreement at the time of enlistment, affiliation, reenlistment, extension, commission or appointment into the ARNG. Paragraph 1-25 (Termination with Recoupment of Incentives) provides the conditions under which termination with recoupment of incentives is warranted. Subparagraph 7 provides that that termination with recoupment will occur if the officer accepts a position as a military technician to include temporary technician over 179 days and indefinite technician, where membership is a condition of employment, effective on the date of employment and the Officer has served less than the required amount of time per current Department of Defense policy. Termination is the day prior to the start date on the Standard Form (SF) 50, SF 52, or Human Resource Office (HRO) memorandum for permanent military technician and on day 180 for all other military technicians when 179 days is exceeded in a 12-month period.
3. Army National Guard (ARNG) Selected Reserve Incentive Program (SRIP) Guidance for Fiscal Year (FY) 2010, 1 October 2009 – 30 September 2010 provides that termination of the Officer Affiliation Bonus without recoupment would occur if the

officer accepts as either an indefinite or permanent military technician position for 180 consecutive days or more.

//NOTHING FOLLOWS//