

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 August 2025

DOCKET NUMBER: AR20240006133

APPLICANT REQUESTS in effect, relief of financial liability for the Financial Liability Investigation of Property Loss (FLIPL) in the amount of \$1,530.50.

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- Commander, 107th Engineer Battalion, Camp Arifjan, Kuwait memorandum (Appointment of Investigating Officer), 13 September 2023
- DD Form 200 (FLIPL), initiated 17 August 2023 with auxiliary documents
- Applicant's Memorandum, 3 November 2023
- Applicant's Memorandum, 13 November 2023
- Approving Authority Memorandum, 20 November 2023
- Deputy Commander General – Sustainment, 40th Infantry Division, Camp Arifjan, Kuwait memorandum (Appeal of Investigation of Property Loss ..., \$1,530.50), 2 January 2024

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 he was assigned liability for equipment that was deployed overseas when he was not in that country or had any contact with the property prior to its departure from the states.
3. After having prior enlisted service in the Regular Navy, the Naval Reserve, having a break in service, and the Regular Army, he enlisted in the United States Army Reserve (USAR) in the rank/grade of sergeant/E-5 effective 7 July 2015.
4. He was promoted to the rank/grade staff sergeant/E-6 effective 1 November 2019.

5. U.S. Army Human Resources Command, Fort Knox, KY Orders R-08-002773, 4 August 2020 ordered him to active duty in an Active Guard/Reserve Status (AGR) for a 3-year active duty commitment to the 411th Engineer Company (ECC), Cedar Rapids, IA with a reporting date of 23 September 2020.

6. 416th Theater Engineer Command, Darien, IL Orders UM-289-0001, 16 October 2022 ordered him to deploy with his unit in a temporary change of station status for the purpose in support of Operation Enduring Freedom (Spartan Shield), Camp Buehring, Kuwait with a proceed date of on or about 15 December 2022 for a period not to exceed 365 days.

7. On 13 September 2023, an investigating officer (IO) [known as the Financial Liability Officer (FLO)] was appointed pursuant to Army Regulation 735-5 (Property Accountability Policies), paragraph 13-24, to conduct an investigation of property loss. The IO was tasked to determine if the property loss is due to someone's negligence or willful misconduct and was the proximate cause of the (loss, damage, or destruction). If an individual was negligent, and that negligence was the cause of the (loss, damage, or destruction), it is appropriate to recommend assessment of financial liability against that individual.

8. The applicant provides the DD Form 200, 29 September 2023, with auxiliary documents, that show on 5 August 2023, the 411th ECC was tasked with completing a 100% Organic Property Book inventory in preparation of demobilization. The Commander, Captain (CPT) A____ S____, worked with the rear detachment, and numerous members of the unit in order to validate all equipment was on hand as the unit's equipment was spread throughout multiple areas of operations in Kuwait and Jordan, as well as some items being back at home station. After exhausting all options, it was determined that the unit was missing the items listed on this form. The initial property book split was done incorrectly prior to mobilization, and there were numerous discrepancies that had to be addressed in addition to these items (see attachment for further additional information). The IO noted:

a. There are six (6) pieces of equipment that were discovered to be missing, and none of the equipment has been located throughout the course of the investigation. All of the listed items were identified as missing on or around 5 August 2023 during the course of the unit conducting a 100% organic property book inventory. The unit commander along with numerous other members of the unit, both with the unit in Kuwait and Jordan and also back at home station with the rear detachment, exhausted all efforts in an attempt to locate the missing items, with negative results.

b. During the unit's pre-mobilization inventories, the unit accounted for the proper number of carpenters tool kits so, they were under the assumption that they had accountability for all of the tool kits. However, once the 100% property book inventory

was completed, it was discovered that two of the tools kits were missing. The reason the unit was tracking the proper number of tool kits was due to a fault on the property book. The unit, at some point, was issued three additional tool kits that were never added to the property book. Due to this the unit believed that the three additional tool kits were in fact the missing tool kits. The unit was unaware that the tool kits were supposed to be on the property book in addition to the nine (9) other carpenters tool kits.

c. Due to the fault on the property book not showing the three (3) additional carpenters tool kits, the unit would not have known that they were missing the listed tool kits. The tool kits that were on the primary hand receipt/property book do not have a serial number associated with them, they only have a serial number in GCSS-A (global combat support system – Army). Due to this, the unit counted the tool kits on hand which led them to believe that they had the proper accountability. Throughout the investigation, the IO found no evidence of overtly negligent or criminal behavior that led to the loss of the tool kits. For that reason, the IO did not recommend that any party be found liable for the cost of the two (2) missing items.

d. Three chemical mask systems were identified as missing during the 100% organic property book inventory either at home station or with units deployed to Kuwait or Jordan. SSG B___ (the applicant) at home station conducted an inventory with negative results. The IO could not pinpoint a specific individual, or individuals, who failed to account for the masks. Due to all of the facts and circumstances surrounding the missing M50 masks, the IO does not believe that any individual acted negligently or criminally when it comes to the missing masks. The IO does believe that the process for equipment accountability within the unit was severely lacking from June 2022 until the units' mobilization in December 2022, most likely due to key personnel movement and transitioning. After considering all of the facts and information, the IO recommended that no party be held liable for the cost of the missing M50 masks.

e. One electronic test set (MSD V2) was identified as missing during the 100% organic inventory. The unit was advised in July 2020 that this particular MSD V2 should be turned in, due to the system being outdated. Per the unit's property book and primary hand receipt, the MSD V2 was never turned in. The MSD V2 was not located at home station or with the mobilized unit. The MSD V2 is no longer serviceable, it is outdated, and was to be turned in and not to be updated or reissued. The IO does not believe that any individual acted negligently or criminally in regard to the loss of the listed item. Due to this, and to the fact that the item was to be turned in and not reissued, the IO recommended that no party be held liable for the cost of the missing item.

f. Block 12 (Responsible Officer (Property Record Items)) shows the "No" box checked in block 12a (Negligence or Abuse Evident/Suspected) and the following

comments were provided: "Recommend approval to relieve the Soldiers from financial liability as it appears gross negligence was not involved."

g. Block 13 (Appointing Authority) shows the "Approve" box checked in block 13a (Recommendation) and the following comments were provided: "Recommend all parties be relieved of liability. I concur with the financial liability officers' findings and recommendations in regard to the property listed in Blocks 4-6. The unit has identified shortcomings within their CSDP and property accountability to ensure subsequent event will not occur during property book splits in the future." Block 13c (Financial Liability Officer Appointed) shows the "Yes" box checked.

h. Block 14 (Approving Authority) shows the "Disapprove" box checked in Block 14a (Recommendation) and the following comments were provided: "Due to a failure of CSDP policies and the lack of a concentrated effort to conduct property books split, I am recommending financial liability be assessed to CPT S____ and (Applicant). These issues should have been identified and corrected prior to the unit deploying. The process failures led to the loss of the equipment listed." Block 14c (Legal Review Completed if Required) shows the "Yes" box checked. The approving authority digitally signed the form on 16 October 2023.

i. Block 15 (Financial Liability Officer), shows in block 15b (Dollar Amount of Loss) contains the entry "215,510.00," block 15c (Monthly Basic Pay) contains the entry "4,616.40," and block 15d (Recommended Financial Liability) contains the entry "1,530.50."

j. Block 16 (Individual Charged) shows the applicant examined the findings and recommendations and digitally signed the form on 3 November 2023. He further noted he would submit a statement in objection.

k. The continuation page for block 14 shows the approving authority provided the following additional comments:

After reviewing the preponderance of evidence. I have decided to assess financial liability in the amount of \$1,530.00. This decision is based on the clear failures of the Command Supply Discipline Program (CSDP) and the lack of a formally documented property book split prior to the deployment of the 411th ECC. The value of the lost equipment is \$21,551.00. Keep in mind that the assessment of liability could have been far worse than what is being assessed. I've taken into consideration the contributing factors and while preparing for deployment is challenging for the entire organization, you still must maintain a strong CSDP. Keep in mind if this equipment is found at a later point in time, there are regulatory provisions that allow for the addition of this property back into the system of record and the repayment of any debts paid up until that point.

9. In a 3 November 2023 memorandum, the applicant submit a statement of objection to the FLIPL. He noted he did not have "custodial responsibility" of the 411th ECC's equipment and was not present in Kuwait during the unit's deployment (see memorandum for further details).
10. In a 13 November 2023 memorandum, the applicant requested reconsideration of him being assessed financial liability in the amount of \$1,530.50 in the FLIPL. He again noted he did not have custodial responsibility of the 411th ECC's equipment because he was not physically present in Kuwait during the unit's deployment. He was with the 389th Engineer Battalion in the S-4 as the Senior Supply Sergeant. He advised and helped the unit prior to and during their deployment but his advice and help cannot be used to hold him responsible for any lost equipment (see memorandum for further details).
11. The approval authority in a 20 November 2023 memorandum to the Deputy Commanding General – Sustainment, 40th Infantry Division, Camp Arifjan, Kuwait, noted he considered the applicant's reconsideration of his charge of financial liability and determined he should still be held accountable (see memorandum for further I details).
12. The Deputy Commanding General – Sustainment, 40th Infantry Division, Camp Arifjan, Kuwait memorandum (Appeal of Investigation of Property Loss ..., \$1,530.50), 2 January 2024, upheld the commander's decision to assess liability and denied relief to (Applicant).
13. The applicant provides numerous auxiliary documents associated with the DD Form 200 that included email correspondence with his chain of command, two primary hand receipts for the 411th ECC, a cyclic inventory listing hand-receipt, and numerous sworn statements obtained throughout the investigation. Also, included is a legal review that determined the IO's findings and determinations were legally sufficient (see attachments for further details).
14. The applicant retired on 31 July 2025 by reason of sufficient service for retirement and transferred to the USAR Control Group (Retired). His DD Form 214 (Certificate of Uniformed Service) shows he completed 20 years and 15 days of total active service.
15. In connection with the processing of this case, an advisory opinion was obtained on 3 March 2025, from the Director of Supply Policy, Office of the Deputy Chief of Staff, G-4. This official noted in pertinent part:

Our recommendation and/or opinion is based on whether the organization followed Army policies and procedures for processing a Financial Liability Investigation of Property Loss (FLIPL), DD Form 200.

After a thorough review of the investigation packet in its entirety, the Office of the Deputy Chief of Staff, G-4, concluded that several items and actions were not in accordance with policy, Army Regulation 735 -5 (paragraphs 5-20, 5-25, 5-24, 6-6, 6-7). Policy states, "Before holding a person financially liable for a loss to the Government, the facts must clearly show that the person's conduct was the "proximate" cause of the loss, damage, destruction, or theft (LDDT). That is, the person's acts or omissions were the cause that, in a natural and continuous sequence, unbroken by a new action, produced the LDDT, and without which the LDDT would not have occurred."

Through our review we determined policy was not followed due to evidence clearly outlining there was not a continuous sequence that caused the loss. The process was broken throughout the deployment process from initiation to redeployment that could have cause the LDDT. Actions contributing to a non-continuous sequence include the split books (PBO action), inventories (Commander action), property in-transit loss possible, items not added to property book (PBO action), forward/rear supply sergeants (no proper hand off) and commanders' inventories, etc.

Additionally, the dollar amount of the loss shown in Block 15b (\$215,550.00) does not match the total amount (\$21,550.00) shown in Block 8 of the DD Form 200. This error can affect the amount a soldier is assessed. Therefore, it is our recommendation that verification of the dollar amount assessed be validated.

16. The applicant was provided a copy of the advisory opinion on or about 6 March 2025 for review and an opportunity to comment and/or submit a rebuttal. He did not respond.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The Board concurred with the G4 advisory opinion; through their review it was determined that policy was not followed due to evidence clearly outlining there was not a continuous sequence that caused the loss. In addition, that the dollar amount of the loss shown in Block 15b (\$215,550.00) does not match the total amount (\$21,550.00) shown in Block 8 of the DD Form 200. Therefore, based upon the errors identified, there was sufficient evidence to cancel the applicant's debt until corrective action is taken by unit personnel to address the errors identified. and granted relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
XX	XX	XX	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 records of the individual concerned be corrected by canceling the applicant's debt until corrective action is taken by his unit to address the errors identified by G4.

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 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 ABCMR. The ABCMR will decide cases on the evidence of record; it is not an investigative body. The Board 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.
2. Army Regulation 710-2 (Supply Policy Below the National Level), 28 March 2008 prescribes policy for supply operations below the national level. It applies in peace and war. Appendix B implements the Command Supply Discipline Program (CSDP). It states the CSDP is a commander's program and that commanders will implement the CSDP by using their existing resources. It further provides program guidance that includes enforcement of supply discipline methods, administrative measures, disciplinary measures, reaction to incidents of non-financial liability, and ensuring supply discipline and management controls.
3. Army Regulation 735-5 (Property Accountability Policies), 9 November 2016 contains concepts and guidelines for establishing and maintaining the CSDP. The CSDP addresses supervisory and/or managerial responsibilities within the supply system from the user to the Army command (ACOM), Army service component command (ASCC), and/or direct reporting unit (DRU) level. Army Regulation 710-2 outlines the specific requirements for the CSDP. The CSDP is a compilation of existing regulatory requirements brought together for visibility purposes. It is directed at standardizing supply discipline throughout the Army. Also, the CSDP is meant to simplify command, supervisory, and managerial responsibilities. Simplification is accomplished by outlining the various requirements for responsible personnel, by standardizing requirements, and by formalizing follow-up procedures. It defines the following terms:
 - a. Financial Liability – The statutory obligation of an individual to reimburse the Government for lost, damaged, or destroyed Government property as a result of negligence or abuse.
 - b. Negligence – The failure to act as a reasonably prudent person would have acted under similar circumstances. An act or omission that a reasonably prudent person would not have committed, or omitted, under similar circumstances and which is the proximate cause of the loss of, damage to, or destruction of Government property. Failure to comply with existing laws, regulations, and/or procedures may be considered as evidence of negligence.

c. Proximate Cause – The cause, which in a natural and continuous sequence of events unbroken by a new cause, produced the loss or damage. Without this cause, the loss or damage would not have occurred. It is further defined as the primary moving cause, or the predominant cause, from which the loss or damage followed as a natural, direct, and immediate consequence.

d. Chapter 13 states that the purpose of a FLIPL documents the circumstances concerning the loss or damage of Government property and serves as, or supports, a voucher for adjusting the property from accountable records. It also documents a charge of financial liability assessed against an individual or entity or provides for the relief from financial liability. Chapter 13 also states a financial liability officer (FLO) responsibility is to determine the cause and value of the loss or damage of Government property listed on the DD Form 200 and determine if assessment of financial liability is warranted. That determination must be based on the facts developed during a thorough and impartial investigation. However, before beginning the investigation, the FLO must understand the terms "responsibility, culpability, proximate cause, and loss;" each term impacts upon a determination of financial liability. Individuals may be held financially liable for the loss or damage of Government property if they were negligent or have committed willful misconduct, and their negligence or willful misconduct is the proximate cause of that loss or damage.

(1) Proximate Cause: Before holding a person financially liable for a loss to the Government, the facts must clearly show that the person's conduct was the "proximate" cause of the loss or damage. That is, the person's acts or omissions were the cause that, in a natural and continuous sequence, unbroken by a new cause, produced the loss or damage, and without which the loss/damage would not have occurred.

(2) Loss: Before holding a person financially liable for a loss to the Government, the facts must clearly show that the person's conduct was the "proximate" cause of the loss or damage. That is, the person's acts or omissions were the cause that, in a natural and continuous sequence, unbroken by a new cause, produced the loss or damage, and without which the loss or damage would not have occurred.

e. Paragraph 13-4 (Related financial liability investigations of property loss) notes when property listed on more than one property account becomes lost, damaged, or destroyed in the same incident, initiate a separate DD Form 200 for each property account affected. Cross-reference the separate DD Form 200 to each other. When the lost, damaged, or destroyed property is on the property records of the same account and the same document register, prepare only one DD Form 200.

f. Paragraph 13-13 notes the responsible officer and/or reviewing authority will forward financial liability investigations of property loss with exhibits, to the approving

authority for assignment of an inquiry investigation number and then to the accountable officer for assignment of a document and/or voucher number.

g. Paragraph 13-23 (Recommendation by the appointing authority without further investigation), states this action provides the appointing authority, when designated, the option to recommend shorting the financial liability investigation process when the facts and circumstances permit. The short financial liability investigation does not relieve the appointing and/or approving authority from performing those actions normally conducted by the IO if liability is assessed, such as determination of fair market value or depreciation.

(1) In block 15a of DD Form 200 to enter a recommendation regarding the charge of financial liability, and the amount of financial liability being recommended. Enter a statement explaining the facts on which the appointing authority's recommendation is based. Enter the name, grade, and social security number of those individual(s) being recommended for charges of financial liability.

(2) Complete blocks 15b, block 15c, and block 15d of DD Form 200 to show the amount of the loss, the respondent's monthly basic pay, and the recommended amount of financial liability. When more than one individual is being recommended for charges of financial liability, use an added page that contains the elements of information that are unique to the individuals being recommended for charges of financial liability.

h. Paragraph 13-29 (FLO's responsibilities) states a FLO's responsibility is to determine the cause and value of the loss or damage of Government property listed on the DD Form 200, and to determine if assessment of financial liability is warranted. That determination must be determined from the facts developed during a thorough and impartial investigation. However, before beginning the investigation the FLO must have an understanding of the terms "responsibility, culpability, proximate cause, and loss;" each term impacts upon a determination of financial liability. Individuals may be held financially liable for the loss or damage of Government property if they were negligent or have committed willful misconduct, and their negligence or willful misconduct is the proximate cause of that loss or damage.

i. Paragraph 13-34 (Financial liability recommended) notes before forwarding the DD Form 200 to the appointing or approving authority, the FLO will give any individual, against who makes a recommendation to assess financial liability, a chance to examine the DD Form 200 after the findings and recommendations have been recorded on the DD Form 200, and the opportunity to make a rebuttal statement on their behalf.

j. Paragraph 13-40d(4) states the approving authority can overrule, when appropriate, the recommendations of the appointing authority and the FLO. When this action results in the assessment of financial liability, the individuals not previously

recommended for liability will be advised in writing of their rights and afforded an opportunity to exercise their rights.

k. Paragraph 13-44 states the approving authority, upon receipt of a request for reconsideration, will review any new evidence offered, and decide to either reverse the previous decision assessing financial liability against the individual or recommend the continuation of the assessment of financial liability. A request for reconsideration will be reviewed only on the basis of legal error (that is, the request must establish that the facts of the case do not support an assessment of financial liability).

4. Department of the Army (DA) Pamphlet 710-2-1(Using Unit Supply System (Manual Procedures) Paragraph 9-6 (b) (Annual or Cyclic Inventory) provides when the cyclic inventory option has been chosen, conduct cyclic inventories monthly, quarterly, or semiannually. Inventory about 10 percent of the property book items monthly, 25 percent quarterly, or 50 percent semiannually.

5. Army Regulation 600-4 (Remission or Cancellation of Indebtedness) in accordance with the authority of Title 10, United States Code (USC), section 4837, 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. Indebtedness to the U.S. Army that may not be canceled under Title 10, USC, section 4837 when the debt is incurred while not on active duty or in an active status.

//NOTHING FOLLOWS//