

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 April 2025

DOCKET NUMBER: AR20240007787

APPLICANT REQUESTS: reinstatement and payment of the final portion of his Reenlistment Bonus (REB) in the amount of \$5,000.00.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 4 October 2013
- National Guard Bureau (NGB) Form 600-7-3-R-E (Annex R to DD Form 4 or DA Form 4836 REB Addendum Army National Guard (ARNG) of the United States (ARNG)), 4 October 2013, showing he extended in the ARNG:
 - for 6 years in Military Occupational Specialty (MOS) 46Q (Public Affairs Communication Specialist)
 - he was entitled to a bonus in the amount of \$10,000.00
 - payment would be in two increments: 50 percent after his current Expiration Term of Service (ETS) and the last 50 percent on his fourth year anniversary
 - Section Vi (Termination) states he would be terminated without recoupment if he accepted a milTech (MILTECH) position that exceeds 180 days within a continuous 12 month period where membership on a Reserve Component is a condition of employment and he served more than one day of the contract
- NGB Form 22-5 (Addendum to DD Form 4 Approval and Acceptance by Service Representative for Interstate Transfer (IST) in the ARNG), 1 September 2016, showing his IST to the state of Louisiana
- Orders Number 260-002, 16 September 2016, showing his release from his position in TX and transfer to LA
- Memorandum, Subject: Notification of Potential Entitlement to Incentive Payment(s), 14 March 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, in part, he received a letter from the NGB, dated 14 March 2024, notifying him that he may not have received his incentive entirely from his REB, bearing control number R13100003XX, prior to his separation from the Texas Army National Guard (TXARNG) and was directed to contact the ABCMR for assistance.

3. A review of the applicant's available service record reflects the following:

- Having prior enlisted service with the Regular Army, on 19 October 2010 he enlisted in the TXARNG
- DA Form 1059 (Service School Academic Evaluation Report), shows he successfully completed the Basic Public Affairs Course from 29 July 2011 to 24 October 2011
- Orders Number 284-1060, dated 10 October 2012 was issued for a retroactive award of MOS 46Q, effective 24 October 2011
- DA Form 4836, dated 4 October 2013 shows he extended his enlistment with the TXARNG for a period of 6 years and in conjunction, he signed NGB Form 600-7-3-R-E showing entitlement to a \$10,000.00 REB incentive for reenlisting MOS 46Q for 6 years to be paid in:
 - two installments (50 percent processed for payment the day after his current ETS
 - and the final 50 percent upon completion of the fourth-year anniversary)
 - this form bears Bonus Control Number R13100003XX
- NGB Form 22-5, dated 1 September 2016 shows an IST from the TXARNG to the LAARNG
- Orders Number 260-002, dated 16 September 2016 was issued for a retroactive IST from the TXARNG to the LAARNG, effective 1 September 2016
- NGB Form 22-5, dated 17 October 2022 shows an IST from the LAARNG to the COARNG
- He continues service with the ARNG

4. On 26 March 2025, the NGB, Chief, Special Action Branch, provided an advisory opinion recommending partial approval stating:

a. The applicant reenlisted in the TXARNG with a \$10,000 MOSQ bonus for 19 October 2013 to 18 October 2019 signed 4 October 2013. Bonus was established in the Guard Incentive Management System (GIMS) with eligibility dates of payment to be 19 October 2013 and 19 October 2017 for \$5,000.00 each. He received the first

payment of \$5,000.00. The incentive was terminated effective 27 June 2017 with 44 months complete.

b. After review of his submission and records, the applicant interstate transferred to the COARNG and accepted a MILTECH position starting 27 June 2017. In accordance with (IAW) section VI paragraph 4d of the bonus addendum, the incentive would be terminated the day before the start of the MILTECH position, 26 June 2017. He was notified by email of the incentive termination and steps to file an Exception to Policy (ETP), no ETP was filed.

c. It is the recommendation of this office that his request be partially approved. His incentive should be terminated effective 26 June 2017 IAW section VI paragraph 4d of the bonus addendum. He completed 44 months of the incentive and should receive a prorated amount of \$6,111.11. He received the first \$5,000.00 and is owed \$1,111.11 of the second payment.

d. The COARNG concurs with this advisory opinion

5. On 28 March 2025, the applicant was provided a copy of the advisory opinion and given an opportunity to respond. As of 14 April 2025, he did not respond.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined partial relief was warranted. Upon this review of your request for the final portion of your Reenlistment Bonus (REB), your records shows that you reenlisted in the Texas Army National Guard with a \$10,000 bonus payable in two installments of \$5,000 each. You received the first payment but accepted a Military Technician position before completing the full service required for the second payment. Based upon the applicant's incentive being terminated early under the terms of your bonus agreement, the Board concluded the applicant is entitled to a prorated amount of \$1,111.11.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show that the applicant's Reenlistment Bonus (REB) was properly terminated effective 26 June 2017 in accordance with the terms of his bonus addendum, due to acceptance of a Military Technician position. The records should further reflect that the applicant completed 44 months of qualifying service and is entitled to a prorated bonus payment of \$1,111.11.

//SIGNED//

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, U.S. Code, 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. Title 37, USC, section 308 (Special Pay: reenlistment bonus) states the Secretary concerned may pay a bonus under paragraph (2) to a member of a uniformed service who is qualified in a military skill designated as critical by the Secretary of Defense, and reenlists or voluntarily extends the member's enlistment for a period of at least three years in a regular component or the Reserve component of the service concerned. Bonus payments authorized under this section may be paid in either a lump sum or in installments. If the bonus is paid in installments, the initial payment shall be not less than 50 percent of the total bonus amount.
3. National Guard Bureau Selected Reserve Incentive Program (SRIP) 13-01 provides that the REB is processed in in two installments, 50 percent processed for payment the day after his current ETS, and the final 50 percent upon completion of the fourth-year anniversary.
4. Title 31, U.S. Code, 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//