

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 1999-022

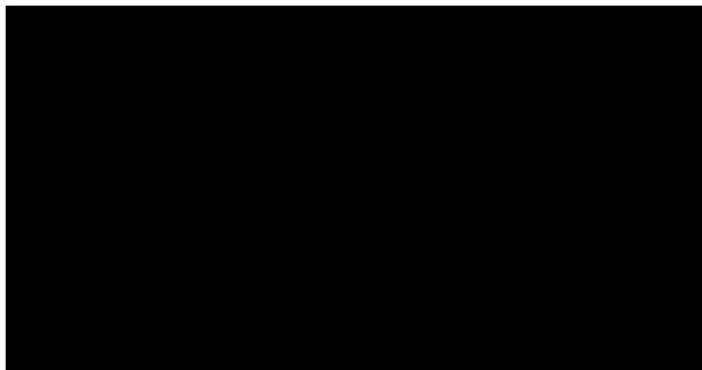
DECISION OF THE DEPUTY GENERAL COUNSEL
ACTING UNDER DELEGATED AUTHORITY

I approve the recommended Order of the Board.

I disapprove the recommended Order of the Board.

I concur in the relief recommended by the Board.

DATE: Sept. 27, 1998




**DEPARTMENT OF TRANSPORTATION
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FINAL DECISION


This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on November 10, 1998, following the BCMR's receipt of the applicant's completed application.

This final decision, dated September 9, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, a senior chief aviation structural mechanic (AMCS; pay grade E-8) on active duty in the Coast Guard, asked the Board to correct his military record to show that, in 1982, he extended his enlistment so that he could receive a Zone B Selective Reenlistment Bonus (SRB) pursuant to ALDISTs 340/81 and 004/82.

APPLICANT'S ALLEGATIONS

In his application to the BCMR, the applicant alleged that he was never counseled about his eligibility to receive an SRB by extending his enlistment in 1982. He alleged that, if he had been counseled, he would have extended his enlistment to receive the maximum possible bonus. The applicant stated that he did not discover his eligibility for this SRB until December 8, 1997.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on February 23, 1976, for a term of four years. On February 5, 1980, he reenlisted for a term of three years, through February 4,

1983, and received a Zone A¹ reenlistment bonus. He was then transferred to Air Station Kodiak (Alaska) for a two-year tour of duty.

On January 12, 1982, the Commandant of the Coast Guard issued ALDIST 004/82, which allowed members within 30 days of the end of their enlistment periods to receive an SRB if they reenlisted or extended their current enlistments for at least three years. The Zone B SRBs authorized for AM1s who extended their enlistments or reenlisted under ALDIST 004/82 were calculated with a multiple of one. ALDIST 004/82 also temporarily waived the requirement that members be within 30 days of the end of their enlistment periods in order to be eligible to receive the SRB for extending their enlistments. To take advantage of ALDIST 004/82, members had to extend their enlistments before February 15, 1982. On March 3, 1982, the Commandant issued ALDIST 068/82, which made members in the AM rating ineligible for Zone B SRBs.

The applicant did not extend his enlistment or reenlist while ALDIST 004/82 was in effect. There is nothing in his military record to indicate that he was ever counseled about the terms of ALDIST 340/81 or ALDIST 004/82. The applicant's rating and pay grade at this time were AM1 (aviation structural mechanic first class) and E-6.

In the summer of 1982, the applicant was transferred from Kodiak to Air Station Humboldt Bay (Alaska). He was counseled concerning reenlistment and SRB opportunities on September 29, 1982. On January 24, 1983, the applicant extended his enlistment for 12 months, through February 4, 1984.

In April 1983, the applicant's command apparently noticed that he had not been required, prior to reporting to Humboldt Bay, to sign a reenlistment or extension contract obligating himself to enough years of duty to complete his tour at the station. The personnel officer at Air Station Kodiak should have required him to sign such an extension or reenlistment contract prior to permitting the transfer. The command at Humboldt Bay asked the applicant to sign a four-year extension contract. He refused to do so, stating that it was not now required because he had already reported to the unit. On April 6, 1983, the administration officer at Humboldt Bay documented the applicant's refusal to sign a four-year extension contract in his record.

Subsequently, the applicant signed the following extension and reenlistment contracts:

¹ The amounts of SRBs vary according to the length of each member's active duty service, the length of the period of reenlistment or extension of enlistment, and the need of the Coast Guard for personnel with the member's particular skills. Coast Guard members who have at least 21 months but less than 6 years of active duty service are in "Zone A," while those who have at least 6 but less than 10 years of active duty service are in "Zone B." At the time ALDIST 004/82 was issued, the applicant was in Zone A, with approximately 5 years and 11 months of active duty service and 1 year remaining on his enlistment contract. Members may not receive more than one bonus per zone, and the applicant had already received a Zone A SRB. However, if the applicant had extended his enlistment under ALDIST 004/82, the extension would have gone into effect after his sixth anniversary on active duty, when he was in Zone B.

April 19, 1984 ²	12 months
April 17, 1985	12 months
April 14, 1986	3 years
April 14, 1989	3 years
March 24, 1992	4 years

Although there are no further reenlistment or extension contracts in the applicant's military record, he apparently remains on active duty.

VIEWS OF THE COAST GUARD

On July 26, 1999, the Chief Counsel of the Coast Guard issued an advisory opinion recommending that the Board deny the applicant's request for lack of proof.

The Chief Counsel argued that COMDTINST 7220.13E did not require the Coast Guard to counsel the applicant concerning his eligibility to extend his enlistment and receive a Zone B SRB under ALDIST 004/82.³ Furthermore, he argued, neither statutory nor common law required the Coast Guard to counsel its members concerning this opportunity. Therefore, the Chief Counsel argued, the Coast Guard's duty to counsel its members concerning SRB opportunities is entirely self-imposed and must be left to the Coast Guard to interpret.

The Chief Counsel stated that "the Coast Guard has interpreted its policy to mean that it may fulfill its self-imposed notice procedures through a variety of procedural mechanisms, not solely through documented counseling sessions." He argued that under *Chevron v. Natural Resources Defense Council*, 467 U.S. 837 (1984), the Board should defer to the Coast Guard's interpretation and "find that there was no single procedure required to inform a service member of the option to reenlist or extend under ALDIST 004/82." To do otherwise would mean that the Coast Guard had a duty to counsel the more than 20,000 enlisted members who were eligible under ALDIST 004/82 during the one-month period between when it became effective, January 12, 1982, and February 14, 1982. Therefore, the Chief Counsel urged the Board to find that the applicant had received constructive notice of the SRB opportunity through the ALDIST message system, and that this constructive notice fulfilled any perceived duty on the part of the Coast Guard to counsel the applicant.

The Chief Counsel also argued that, even if the Board were to find that the Coast Guard had a duty, but failed, to counsel the applicant, the Board could not presume, based on the member's word and subsequent years of service, that the applicant would

² The applicant's previous enlistment contract was extended only through February 4, 1984. Although the applicant apparently remained on active duty between February 5, 1984, and April 19, 1984, there is no enlistment or extension contract in his file that covers the period.

³ COMDTINST 7220.13E required the Coast Guard to counsel potential reenlistees of their SRB opportunities but not potential extendees.

have, in fact, chosen to extend his contract. The Chief Counsel stated that the applicant's word is not substantial evidence, "particularly considering that it speculates on what he would have done some sixteen years earlier under different circumstances." He urged the Board to require the applicant to "articulate specific, fact-based reasons for his conclusion" that he would have extended had he been counseled concerning ALDIST 004/82.

The Chief Counsel alleged that the applicant's series of one-year extensions in the mid 1980s and his refusal to sign a four-year extension after reporting to Air Station Humboldt Bay in April 1983 demonstrate that he was disinclined in 1982 to commit himself to the Coast Guard for a long period.

Finally, the Chief Counsel stated that the applicant's request "involves a significant issue of Coast Guard policy." Therefore, any decision by the Board other than denial must be reviewed by the Secretary's delegate under 33 C.F.R. § 52.64(b).

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On July 27, 1999, the Chairman sent the applicant a copy of the Chief Counsel's advisory opinion and invited him to respond within 15 days. The applicant requested an extension because the advisory opinion had arrived while he was on vacation out of town. He responded on August 31, 1999. In his response, the applicant stated the following:

When I transferred from Kodiak in the summer of 1982, I had full intentions of remaining in the Coast Guard for at least an additional four years and would have done so if properly counseled on SRB's in effect at the time. I was recently divorced with custody of my two sons and in no financial or emotional shape to separate from the service. ... I cannot honestly say I would have obligated for more than four years.

The applicant further stated that he was not aware when he arrived in Humboldt Bay that the proper paperwork was not in place. When the discovery was made "almost twelve months after [he] was transferred," his refusal to sign a long-term extension was not due to any uncertainty on his part concerning his career intentions. The applicant explained that "[a]s was common practice at the time, [short] extension of enlistment's, [sic] were used in an attempt to possibly fall into the zone of a reenlistment bonus. I used that practice on numerous occasions through the 80's. To the best of my knowledge, at the 10-year point in my career with no possibility of an SRB, I began to reenlist in increments of four to six years."

APPLICABLE REGULATIONS

SRB Regulations

Commandant Instruction 7220.13E (Administration of the Reenlistment Bonus Program) was released on May 4, 1979, and was in effect when ALDIST 340/81 and

ALDIST 004/82 were distributed. Section 1.d.(2) of Enclosure (1) provided the criteria for SRB eligibility in Zone B. It stated the following, in part:

(2) Zone B Eligibility. [To be eligible, a member must meet all of the following criteria:]

(a) Be serving on active duty in pay grade E-3 or higher in a military specialty designated [in the SRB announcement].

(b) Must have completed more than six but not more than ten years of active duty immediately preceding the date of reenlistment or operative date of extension of enlistment.

(c) The extension of enlistment or reenlistment must be at least THREE YEARS in length and, when combined with prior active duty, must yield a total of at least ten years of active duty. [Emphasis in original]

(d) Has not previously received a Zone B SRB, nor previously enlisted, reenlisted, or extended (extensions that have become effective) beyond ten years of active duty. . . .

Section 1.g. of Enclosure (1) stated that in order to "attain the objectives of the SRB program, each potential reenlistee who would be eligible for SRB must be informed of their eligibility and the monetary benefits of the SRB program. It is expected that the reenlistment interview, held approximately six months before expiration of enlistment, will provide the potential reenlistee with complete information on SRB."

ALDIST 004/82

ALDIST 004/82, issued on January 12, 1982, authorized members in the AM rating to receive a Zone B SRB with a multiple of 1 if they reenlisted or extended their enlistments for 3 or more years. ALDIST 004/82 also suspended the provisions of Article 1-G-83 of the Personnel Manual (Execution of Agreement to Extend Enlistment) until February 15, 1982, and therefore allowed members to extend enlistments that were not within 30 days of termination.

Personnel Manual Provisions

Article 1-G-83 of the Coast Guard Personnel Manual stated the following, in part:

(b) Generally, an individual should not be permitted to agree to extend his/her enlistment until approximately 30 days prior to the date of expiration of the then existing enlistment. For certain purposes, however, such as qualifying for assignment to a service school, duty outside CONUS, assignment to active duty in the case of a Reservist, or for other duty requiring additional obligated service, it is permissible to permit an indi-

vidual to agree to extend his/her enlistment a considerable time in advance.

Article 4-C-5(d) stated that a "member on a second or subsequent enlistment is considered to be in a career status and, unless otherwise indicated, may be selected for assignment irrespective of expiration of enlistment date. All personnel ordered overseas shall have the required obligated active duty for the overseas tour of duty prior to transfer, unless waived by Commandant (G-PE)." [Emphasis added.]

Article 4-E-3(a) stated that "[e]nlisted personnel selected for transfer outside CONUS [the continental United States, not including Alaska] must have sufficient obligated active duty service as of date of departure from CONUS as follows: (1) Personnel must have required service to complete the prescribed tour for the area or reenlist or extend enlistment, unless otherwise authorized by the Commandant...." [Emphasis added.]

APPLICABLE BCMR DECISIONS

Decision in BCMR Docket No. 121-93.

In BCMR Docket No. 121-93, the applicant asked the Board to reconsider its denial of his request (in the final decision in BCMR Docket No. 237-91) to correct his military record to show that he had extended his service on February 14, 1982, and was therefore due an SRB. Although the Board again denied the requested relief, the Deputy General Counsel (acting as the Secretary's delegate) granted relief, finding in part that

1. because the Coast Guard had presented no evidence as to how the applicant could or should have learned of ALDIST 004/82 any earlier than he claimed, the applicant's sworn statement that he learned of it in 1991 would be accepted at face value, especially since "[a]llegations that the first knowledge members have had of the provisions of ALDIST 004/82 came from contact with [the 'C' school] are common, and have often been accepted without challenge in the past";⁴

2. "Coast Guard regulations require that members be 'fully advised' of SRB opportunities";⁵ and

3. the Board had "commonly afforded relief under similar circumstances in the past, and . . . reversal of such precedents without a firm basis in the record would be clearly unreasonable here."

⁴ In support of this statement, the Deputy General Counsel cited the decision in BCMR Docket No. 151-91.

⁵ The Deputy General Counsel cited BCMR Nos. 224-87, 263-87, 268-87, 285-87 for this position.

Decision in BCMR Docket No. 69-97

In BCMR Docket No. 69-97, the applicant had reenlisted on May 2, 1980, for a six-year term, after completing his first, four-year enlistment. Subsequently, the applicant extended his enlistment three times for periods of two years or less before reenlisting for three years on March 1, 1991, and for another six years on January 6, 1994. The applicant asked the BCMR to correct his record to show that he had requested an extension of his enlistment for a period of six years on February 14, 1982, in order to receive a Zone B SRB. He stated that if he had been properly counseled and made aware of the provisions of ALDIST 004/82, he "would have taken the necessary steps to secure [a] zone 'B' bonus." There was no documentation in the applicant's record to indicate that he was ever advised of the provisions of ALDIST 004/82 while it was in effect.

The Board recommended that the requested relief be granted. That recommendation was based in part on (1) the applicant's sworn statement that he had not been properly counseled about ALDIST 004/82 when it was in effect and had not learned of it until 1997; (2) the applicant's statement that he would have extended his enlistment to receive the SRB had he known of the opportunity; (3) the applicant's previous enlistments and subsequent years of service, which provided a reasonable basis to believe that he would have extended his service obligation had he been properly counseled about ALDIST 004/82; and (4) the Coast Guard's failure to reveal if and how information about ALDIST 004/82 had been disseminated to the members.

The Deputy General Counsel wrote a concurring decision which responded to several of the Coast Guard's arguments that were not mentioned in the Board's decision but are pertinent to the case in hand:

1. In response to the argument that the Coast Guard was only required to counsel potential reenlistees, not potential extendees, she found that Congress had intended both groups to benefit from the SRB program and that the Coast Guard had presented no rational basis for counseling one group but not the other. She concluded that the "Coast Guard erred in drafting COMDTINST 7220.13E when it failed to require mandatory counseling for potential extendees . . ." BCMR Docket No. 69-97, Deputy General Counsel's Concurring Decision, at 3.

2. In response to the argument that the applicant's statements were insufficient to overcome the presumption of regularity in administrative matters such as counseling, she stated that the applicant's history of service and his statements concerning the lack of proper counseling and what he would have done had he been properly counseled were sufficient to nullify the presumption in this case.

3. The Deputy General Counsel found unpersuasive the argument that the applicant's short extensions showed that he was not, in fact, committed to a career in the Coast Guard and therefore was not likely to seek a maximum SRB. She reasoned that short extensions are made frequently for the convenience of the government and do not necessarily reflect negatively on a member's career commitment to the Coast Guard.

4. Finally, the Deputy General Counsel cited several "Comptroller General cases that authorize government agencies to correct errors of wrongful advice or failure to advise when an employee otherwise meets the statutory criteria for obtaining a benefit."⁶ BCMR Docket No. 69-97, Deputy General Counsel's Concurring Decision, at 11.

Decision in BCMR Docket No. 103-97

In BCMR Docket No. 103-97, the applicant alleged that he was not counseled concerning his eligibility for a Zone B SRB under ALDIST 004/82. He was in Zone A when the ALDIST was in effect from January 12, 1982, to February 14, 1982, but he did not reenlist or extend his enlistment during that time. However, on March 26, 1982, just prior to the end of his enlistment, he reenlisted for 3 years and received a Zone A SRB. The applicant asked the Board to correct his record so that he would receive a Zone B SRB under the ALDIST. The Chief Counsel of the Coast Guard explained that, in theory, if the applicant had reenlisted while the ALDIST was in effect to receive a Zone A SRB, he might then have immediately extended that new enlistment to receive a Zone B SRB as well. The Board granted the applicant's request because the Deputy General Counsel had previously ruled that members had a right to be "fully counseled" concerning their SRB opportunities.

The Deputy General Counsel, however, reversed the Board's decision. She ruled "that applicant has not demonstrated: (1) that the Coast Guard knew or should have known that members in applicant's situation might be eligible for both a Zone A and a Zone B SRB during the effective period of ALDIST 004/82, or (2) that he was treated in a manner differently than other members during the effective period of ALDIST 004/82." BCMR Docket No. 103-97, Deputy General Counsel's Concurring Decision, at 2. The Deputy General Counsel also found that the applicant had not suffered an injustice because "he was within three months of expiration of contract, [and] he could have reenlisted for three or more years and thus qualify for the Zone A SRB." BCMR Docket No. 103-97, Deputy General Counsel's Concurring Decision, at 3. Furthermore, she stated, "When applicant did not reenlist or extend prior to or during ALDIST 004/82's effective period, applicant was simply ineligible for a Zone B SRB because he had no enlistment contract in place: (a) which would end after his completion of the minimum six years active duty and (b) on which he could extend his obligated service for a minimum of three years." *Id.*

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submissions, and applicable law:

⁶ The Deputy General Counsel cited Matter of Hanley, B-202112, November 16, 1981; Matter of Anthony M. Ragnas, 68 Comp. Gen. 97 (1988); and Matter of Dale Ziegler and Joseph Rebo, B-199774, November 12, 1980.

1. The Board has jurisdiction over this matter pursuant to 10 U.S.C. § 1552.
2. The applicant stated that he discovered the alleged error that he has asked the Board to correct on December 8, 1997. The Coast Guard did not present any evidence indicating that the applicant knew or might have learned of his eligibility to receive an SRB under ALDIST 004/82 any earlier than the date of discovery alleged by the applicant. Therefore, the Board finds that the application was timely as it was filed within three years of the date of discovery of the alleged error.
3. Under ALDIST 004/82, the applicant was eligible to extend his enlistment for up to six years, from the end of his then-current enlistment in 1983 to 1989, to receive a Zone B SRB. The applicant alleged that he was not counseled concerning his eligibility for the SRB. He further alleged that he would have extended his enlistment for at least four years had he known of his eligibility for the SRB.
4. The SRB statute, 37 U.S.C. § 308(a), expressly includes members who "voluntarily extend[] [their] enlistment[s]" among those who may be eligible for SRBs. The Coast Guard cannot achieve Congress's goals unless it informs members who are eligible to receive a bonus of their eligibility.
5. In COMDTINST 7220.13E, the Coast Guard obligated itself to counsel all potential reenlistees, but not potential extendees, regarding their SRB opportunities. The fact that the Coast Guard neglected to specify in its regulations how potential extendees should be informed of their eligibility under ALDIST 004/82 does not mean potential extendees had less right to be informed than did the potential reenlistees. The Chief Counsel argued, however, that the Coast Guard's obligation to counsel its members concerning SRBs is self-imposed and that the Board must defer to the Coast Guard's determination of how it may fulfill this self-imposed duty to counsel. The Coast Guard, he argued, fulfilled its duty to counsel potential extendees by issuing ALDIST 004/82 and thereby giving all members constructive notice of the opportunity.
6. The Deputy General Counsel has held that the "Coast Guard erred in drafting COMDTINST 7220.13E when it failed to require mandatory counseling for potential extendees on an equal basis with potential reenlistees." BCMR Docket No. 69-97, Deputy General Counsel's Concurring Decision, at 3. Furthermore, the Deputy General Counsel has held that "Coast Guard regulations require that members be 'fully advised' of SRB opportunities." BCMR Docket No. 121-93, Decision of the Deputy General Counsel, at 2. Thus, the Board finds that the Coast Guard did have a duty to counsel the applicant about his eligibility for an SRB by extending his enlistment under ALDIST 004/82. In addition, the Board finds that the "constructive notice" that the Chief Counsel alleged the applicant had received was insufficient to fulfill the Coast Guard's duty to counsel because the Coast Guard was obligated to inform potential extendees of their eligibility under ALDIST 004/82 on an equal footing with potential reenlistees. The Chief Counsel's claim that, because the Coast Guard waived the three-month rule for extensions in ALDIST 004/82, more than 20,000 members were eligible

for an SRB, does not justify failing in its duty to counsel potential extendees on an equal footing with potential reenlistees.

7. The Coast Guard has submitted no evidence to rebut the applicant's claim that he was not informed of his eligibility for a Zone B SRB. With a credible, sworn statement by the applicant to the effect that he was not counseled, and with no contrary evidence presented by the Coast Guard, the Board finds that the preponderance of the evidence indicates that the applicant was not properly counseled in 1982 about his eligibility for a Zone B SRB.

8. The Chief Counsel alleged that the applicant's refusal to sign a four-year extension contract in April 1983 showed that the applicant was not committed to a career in the Coast Guard and that he would not have extended his contract under ALDIST 004/82 even if he had been counseled. However, the regulations did not require an enlisted member who had already reported to an overseas duty station to reenlist for the term of his or her tour. See Articles 4-C-5(d) and 4-E-3(a) of the Personnel Manual. The applicant reported to Air Station Humboldt Bay in the summer of 1982. Despite having counseled him regarding reenlistment in September 1982 and extending his reenlistment in January 1983, the command did not notice the previous command's failure to reenlist him for the length of his tour at Humboldt Bay until April 1983, at least eight months after he reported there.

9. The applicant's refusal to fix the Coast Guard's mistake by reenlisting for four years does not necessarily indicate that he was uncommitted to the Coast Guard. He had already received a Zone A SRB and was aware of the advantage of reenlisting while an SRB opportunity was in effect for his rating. If the applicant had executed a long-term extension in April 1983, he could not have canceled it to reenlist and obtain an SRB if one had become available. And if an SRB had become available to the applicant in the mid-1980s and he executed an extension to receive the SRB, the bonus payment would have been reduced by the amount of obligated service remaining on his four-year April 1993 reenlistment. Enlisted personnel are often counseled about the financial disadvantages of obligating themselves to long reenlistments when no SRB is in effect for their rating at their reenlistment interviews, such as the one the applicant had in September 1982, six months prior to his refusal to reenlist for four years. The Board has held in many similar cases that an enlisted member's short-term extensions, including those executed with the hope of obtaining a future SRB payment, are not proof of the member's lack of a commitment to the Coast Guard. See, e.g., BCMR Docket Nos. 1998-008, 1997-123, 1997-062, and 69-97.

10. Finally, the facts in this case are not dissimilar to those in BCMR Docket No. 69-97, wherein the Deputy General Counsel found that two two-year extensions and one ten-month extension did not establish that the applicant would not have extended for six years if he had been counseled on ALDIST 004/82. In support of that finding, the Deputy General Counsel looked to the purpose of the extensions and found that each one was for a particular purpose and was for the convenience of the Coast Guard. In the Board's view, the difference between that applicant's extensions and this

applicant's short-term extensions is not so significant as to require the Board to reach a different result in this case.

11. The Board also notes that the applicant had no break in service whatsoever during this period even though a member may have a three-month break in service with no loss of eligibility for an SRB or loss of time in pay grade in rating for advancement. The lack of any break in service during this period—as well as the applicant's approximately 24 years of continuous service—demonstrates his commitment to the Coast Guard. Furthermore, the applicant signed a sworn statement to the effect that he would have extended his reenlistment for four years under ALDIST 004/82 had he been properly counseled. Therefore, the Board finds that the preponderance of the evidence indicates that the applicant would have extended his enlistment for four years had he been counseled about ALDIST 004/82 while it was in effect.

12. Like the applicant in BCMR Docket No. 103-97, this applicant was in Zone A when ALDIST 004/82 was in effect and is asking the Board to correct his record so that he may receive a Zone B SRB. However, the applicant in Docket No. 103-97 argued that the Coast Guard erred by failing to counsel him that he could receive both a Zone A and a Zone B SRB by reenlisting and immediately extending that reenlistment while the ALDIST was in effect. The Deputy General Counsel ruled in that case that the applicant had not demonstrated that the Coast Guard knew or should have known that members in applicant's situation might be eligible for both a Zone A and a Zone B SRB during the effective period of ALDIST 004/82. In this case, however, the applicant argued merely that he should have been counseled concerning his eligibility for a Zone B SRB. He had already received a Zone A SRB and was within a month of entering Zone B. Moreover, unlike the applicant in Docket No. 103-97, this applicant had an enlistment contract in place that would terminate while he was in Zone B and that he could easily have extended to receive a Zone B SRB.

13. The Coast Guard erred in 1982 by failing to counsel the applicant of his eligibility to receive a Zone B SRB by extending his enlistment under ALDIST 004/82.

14. Accordingly, the applicant's request should be granted.

15. Because the Chief Counsel stated that the applicant's request "involves a significant issue of Coast Guard policy," this decision must be reviewed by the Secretary's delegate under 33 C.F.R. § 52.64(b).

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application for correction of the military record of _____
USCG, is hereby granted.

The applicant's record shall be corrected to show that on February 14, 1982, the applicant extended his enlistment for four years, through February 4, 1987. The record shall further be corrected to show that on February 5, 1987, the applicant was discharged and reenlisted for a period of five years and two months.

The extension and enlistment contracts signed by the applicant from January 23, 1983 through April 14, 1989, shall be null and void and removed from his record.

The Coast Guard shall pay the applicant any sum he is due as a result of this correction.

