

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2008-092

XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

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. The Chair docketed the case on March 17, 2008, upon receipt of the applicant's completed application, and assigned it to staff members [REDACTED] [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated November 25, 2008, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant, a [REDACTED] pay grade E-5) in the Coast Guard Selected Reserve (SELRES) , asked the Board to correct his record to show that he is eligible to receive a \$4,000 enlistment bonus for signing a SELRES enlistment contract and agreeing to attend MST "A" School.²

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard Reserve on June 29, 2004, for a term of six years.³ His enlistment contract does not reference a Page 7 or any annex concerning a bonus. Section B of the contract references Annexes G and O. Annex G is a form showing that the applicant was enlisted in pay grade E-3 because he had completed at least 60 college semester hours. Annex O is a Statement of Understanding in which the applicant agreed to attend [REDACTED] "A" school to become a [REDACTED].

¹ SELRES is that portion of Ready Reserve units and individual reservists the Secretary has designated as having the highest priority for mobilization. SELRES members participate in inactive duty training periods and annual training in a pay status. The term also includes persons performing initial active duty for training. Coast Guard Recruiting Manual, Article 3.C.6.j.

² "A" School is where Coast Guard members receive training for their specific rating.

³ On his application to the BCMR, the applicant stated the he enlisted on July 28, 2004. However, his enlistment contract clearly states that he enlisted on June 29, 2004.

On the enlistment contract, the applicant initialed section B.8.c. of the contract which states that “[t]he agreements in this section and attached annex(es) are all the promises made to me by the Government. **ANYTHING ELSE ANYONE HAS PROMISED ME IS NOT VALID AND WILL NOT BE HONORED.**” The applicant also signed and initialed section D.13.a., which states the following in bold, capitalized letters:

I certify that I have carefully read this document. Any questions I had were explained to my satisfaction. I fully understand that only those agreements in Section B of this document or recorded on the attached annex(es) will be honored. Any other promises or guarantees made to me by anyone are written below: (*If none, X “NONE” and initial.*) [X] NONE [initials of applicant]

On June 1, 2004, the Coast Guard released ALCOAST 268/04, and it went into effect on July 1, 2004. ALCOAST 268/04 provided an enlistment bonus for anyone enlisting in the SELRES for six years in the [REDACTED] rate. When the applicant signed the enlistment contract on June 29, 2004, ALCOAST 192/03 was in effect and provided bonuses only for members being released from active duty and choosing to affiliate with the SELRES. The applicant began basic training on June 30, 2004, reported to [REDACTED] “A” School on [REDACTED] and completed “A” School on [REDACTED]

VIEWS OF THE COAST GUARD

On July 21, 2008, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board grant relief. The JAG argued that relief should be granted because the recruiter erred by not advising the applicant that he would receive an enlistment bonus pursuant to ALCOAST 268/04 if he waited until July 1, 2004, to enlist.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On July 25, 2008, the BCMR sent the applicant a copy of the views of the Coast Guard and invited him to respond within 30 days. The applicant responded on August 3, 2008, and indicated that he agreed with the Coast Guard’s recommendation.

APPLICABLE REGULATIONS

Article 3.A.1. of the Coast Guard Personnel Manual states that the enlistment bonus program is an incentive to attract qualified personnel to critical skills or ratings to help meet the Coast Guard’s recruiting goals.

Article 3.A.3. of the manual states that enlistment bonuses are linked to a member's recruitment and affiliation with a critical rating by attending a guaranteed Class "A" school or participating in a guaranteed “Striker” program in that rating. An additional amount may be offered for the member to accept an enlistment of six years.

ALCOAST 192/03 was issued on April 29, 2003, and was in effect from July 1, 2003, through June 30, 2004. Under ALCOAST 192/03, affiliation bonuses were available only to Coast Guard members who were being released from active duty and who agreed to serve the remainder of their initial eight-year military obligation in the SELRES.

ALCOAST 268/04 was issued on June 1, 2004, and became effective on July 1, 2004. Under ALCOAST 268/04, an enlistee was eligible for a \$4,000 bonus for enlisting in the SELRES for six years in the [REDACTED] rate.

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:

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10 of the United States Code. The application was timely.

2. The applicant alleged that he is entitled to a SELRES bonus for signing a six-year SELRES enlistment contract on July 28, 2004. However, the applicant's record clearly indicates that he enlisted in the Coast Guard on June 29, 2004. ALCOAST 192/03 was in effect on June 29, 2004, and it did not provide any bonus for new Coast Guard members enlisting in the SELRES. On June 1, 2004, the Coast Guard issued ALCOAST 268/04, which did provide a bonus for those enlisting in the SELRES for six years in the [REDACTED] rate, but it did not become effective until July 1, 2004. Thus, the applicant was not eligible for an enlistment bonus under ALCOAST 192/03 when he signed the SELRES enlistment contract on June 29, 2004.

3. The JAG recommended that that Board grant relief, arguing that if the recruiter had counseled the applicant about the upcoming availability of a bonus, then the applicant likely would have waited until July 1, 2004, to enlist for the bonus. The Coast Guard's recommendation suggests that its recruiters have a duty to advise enlistees going into critical rates to delay their enlistment until a bonus becomes available. However, the Board is unaware of any requirement for the Coast Guard to inform potential SELRES enlistees about the future availability of an enlistment bonus—particularly a bonus that will not become available until after their anticipated enlistment date and after they are expected to begin basic training. Moreover, advising potential enlistees in rates that have been designated as critical that they should delay their enlistment to receive a bonus would impede the Coast Guard's efforts to fill its basic training classes and, especially, its critical rates, which is the purpose of the bonus program. In addition, the Board notes that the applicant's [REDACTED] "A" School began in [REDACTED] just nine weeks after he enlisted, and basic training lasts eight weeks. Therefore, Board is not persuaded that the applicant's recruiter committed any error or injustice in failing to advise him to delay his enlistment and basic training until after ALCOAST 268/04 went into effect.

4. The applicant has not proven by a preponderance of the evidence that the Coast Guard recruiter's failure to advise him about the future enlistment bonus was erroneous or unjust. However, in the advisory opinion for this case, the JAG agreed to pay him the enlistment bonus, and the applicant has received that opinion and responded in agreement. Accordingly, the Board will concur in the relief recommended by the JAG and order the Coast Guard to correct

the applicant's record to show that he is eligible to receive a \$4,000 SELRES bonus for signing an six-year enlistment contract on June 29, 2004.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of [REDACTED], USCGR, for correction of his military record is granted as follows:

If he has met the participation requirement of paragraph 2.B. of ALCOAST 268/04 by completing his IADT, his record shall be corrected to show that he is eligible for and entitled to the first \$2,000 payment of the \$4,000 SELRES enlistment bonus offered under ALCOAST 268/04.

If he meets or has met the participation requirement of paragraph 2.B. of ALCOAST 268/04 by meeting the participation standards under Chapter 4 of the Reserve Policy Manual during the year following his completion of IADT, his record shall be corrected to show that he is eligible for and entitled to the second \$2,000 payment of the \$4,000 SELRES enlistment bonus.

The Coast Guard shall pay him any amount due as a result of a correction made to his record pursuant to this order.

