

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

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2014-102**

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████████████████

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**FINAL DECISION**

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. The Chair docketed the application after receiving the applicant's completed application on April 14, 2014, and assigned it to staff member ██████████ to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated November 21, 2014, 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 machinery technician third class (MK3) currently serving in the Coast Guard Selected Reserve (SELRES), asked the Board to correct his record to show that he is eligible to receive the \$8,000 enlistment bonus that he was promised when he enlisted in the Reserve on May 24, 2011. He stated that he considered enlisting in one of the other branches of the service but chose the Coast Guard because they promised to send him to MK "A" School in addition to an \$8,000 bonus. In support of his application, he submitted a copy of the Page 7 that he signed on May 24, 2014, which states the following:

I have been advised that I am eligible for an \$8,000 SELRES Enlistment or Affiliation bonus. Receipt of this bonus commits me to SELRES participation through 05/24/17.

I hereby acknowledge that I have read and fully understand the contents of COMDTINST 7220.1 (series) and the current ALCOAST applicable to this bonus and fiscal year.

**SUMMARY OF THE RECORD**

On May 24, 2011, at age 21, the applicant enlisted in the Coast Guard Reserve for a term of six years. He had no prior military service. His record contains the above-quoted Page 7

dated May 24, 2011, and signed by the applicant and his recruiter, an E-6. The applicant did not receive the bonus.

### **VIEWS OF THE COAST GUARD**

On June 18, 2014, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board deny relief. The JAG conceded that the applicant was miscounseled, but argued that he is not eligible to receive a SELRES bonus because there was no bonus available when he enlisted. In fact, the JAG stated, there was “no bonus authority issued during the 2011 calendar year.” The JAG noted that an \$8,000 SELRES enlistment bonus had been available under ALCOAST 119/10 for calendar year 2010, but alleged that the ALCOAST had expired five months before the applicant’s enlistment. The JAG stated that although the applicant was erroneously counseled regarding his bonus eligibility, he is not entitled to the bonus, and if he had read the applicable ALCOAST then he would have realized that he was not eligible for the bonus at the time he enlisted.

### **APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD**

On June 26, 2014, the BCMR sent the applicant a copy of the Coast Guard’s views and invited him to respond within 30 days. In his response, the applicant disagreed with the JAG’s recommendation, arguing that he trusted the promises made by his recruiter and that he would have enlisted in another branch of the service if he had known that he was not going to receive the \$8,000 bonus. Finally, he argued that no new recruit would actually ask the recruiter to see the ALCOAST or the Coast Guard regulations cited on the Page 7, because recruits are “too overwhelmed and timid to do that ... they just sign what’s placed in front of them, just like I did.”

### **APPLICABLE REGULATION**

ALCOAST 119/10 was issued on March 17, 2010, and has the subject line, “CY10 Selected Reserve (SELRES) Bonus Amounts/Eligibility,” which states the following in pertinent part (underline added):

- ALCOAST 119/10
- COMDTNOTE 1120
- SUBJ: CY10 SELECTED RESERVE (SELRES) BONUS AMOUNTS/ELIGIBILITY
- A. NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010
- B. RESERVE POLICY MANUAL, COMDTINST M1001.28 (SERIES)
- C. PERSONNEL MANUAL, COMDTINST M1000.6 (SERIES)
- 1. THIS ALCOAST ANNOUNCES ELIGIBILITY AND AMOUNTS PAID FOR SELRES ENLISTMENT/AFFILIATION BONUSES AS AUTHORIZED BY REF A.
- 2. THE FOLLOWING ELIGIBILITY CRITERIA AND BONUS AMOUNTS ARE EFFECTIVE 01 JANUARY 2010 AND WILL REMAIN IN EFFECT UNTIL 31 DECEMBER 2010 OR UNTIL FURTHER NOTICE. FOR THE PURPOSE OF THIS ALCOAST AND THE SELRES BONUS PROGRAM, CRITICAL UNITS ARE DEFINED AS PORT SECURITY UNITS (PSU) AND MARITIME EXPEDITIONARY SECURITY SQUADRONS (MSRON).
- 3. THE DATE OF ELIGIBILITY IS UPON WRITTEN AGREEMENT (ORDERS OR CG-3307) FROM THE MEMBER TO SERVE IN THE SELRES.
- 4. SELRES MEMBERS WHO ACCEPT AN EAD CONTRACT ... [paragraph deleted]

5. SELRES ENLISTMENT BONUS:

A. ELIGIBILITY REQUIREMENT FOR INITIAL ENLISTMENT (NEW ACCESSION WITH NO PRIOR MILITARY SERVICE) UNDER THE RP, RK, RX, OR RA PROGRAMS: APPLICANT MUST ENLIST IN THE MK RATING FOR AT LEAST SIX-YEARS AND MUST COMPLETE INITIAL ACTIVE DUTY FOR TRAINING (IADT) WITHIN 18 MONTHS. IADT CONSISTS OF BASIC TRAINING OR DIRECT PETTY OFFICER TRAINING (DEPOT) PLUS A-SCHOOL COMPLETION IF REQUIRED.

B. BONUS AMOUNT: A TOTAL OF 8,000 DOLLARS IS AUTHORIZED TO BE PAID IN TWO EQUAL AMOUNTS: 4,000 DOLLARS MAY BE PAID AFTER COMPLETION OF IADT AND 4,000 DOLLARS MAY BE PAID ONE YEAR LATER IF PARTICIPATION STANDARDS OUTLINED IN REF B HAVE BEEN MET.

6. PRIOR SERVICE ENLISTMENT BONUS: ... [paragraphs deleted]

7. AFFILIATION BONUS: ... [paragraphs deleted]

8. BONUS ELIGIBILITY FOR LATERAL CHANGE IN RATING: ... [paragraphs deleted]

9. REENLISTMENT/EXTENSION BONUS: ... [paragraph deleted]

10. HIGH PRIORITY UNIT PAY ... [paragraph deleted]

11. APPLICATION PROCEDURES FOR ENLISTED BONUS PROGRAMS, ADDITIONAL ELIGIBILITY RESTRICTIONS, PAYMENT SCHEDULES AND INFORMATION ON RECOUPMENT OF BONUSES, SHOULD A MEMBER NOT SATISFACTORILY COMPLETE A CONTRACT ARE OUTLINED IN REF C. BEFORE ADVISING MEMBERS OF BONUS ELIGIBILITY, COMMANDS OR RECRUITERS SHALL ENSURE THAT A MEMBER MEETS ALL REQUIREMENTS IN THIS MESSAGE AND IN REF B. BONUS ELIGIBILITY SHALL BE DOCUMENTED ON AN ADMINISTRATIVE REMARKS (CG-3307) ENTRY READING AS FOLLOWS: "I HAVE BEEN ADVISED THAT I AM ELIGIBLE FOR A XXX DOLLAR SELRES ENLISTMENT OR AFFILIATION INCENTIVE BONUS. RECEIPT OF THIS BONUS COMMITS ME TO SELRES PARTICIPATION THROUGH MM/DD/YYYY. I HEREBY ACKNOWLEDGE THAT I HAVE READ AND FULLY UNDERSTAND THE CONTENTS OF ALCOAST XXX/10". COMMANDS SHALL INITIATE RECOUPMENT ACTION ON MEMBERS WHO RECEIVE A SELRES BONUS AND THEN DO NOT MEET SATISFACTORY PARTICIPATION REQUIREMENTS OUTLINED IN REF B. ... [paragraphs deleted]

### **PREVIOUS BCMR DECISIONS**

In BCMR Docket No. 2012-232, the Board granted relief to an applicant who enlisted in the SELRES and was erroneously counseled by his Coast Guard recruiter that he was eligible to receive a SELRES bonus. Although the JAG recommended denying relief, the BCMR granted relief, finding that the applicant had reasonably relied on the erroneous promises of his Coast Guard recruiter.

In BCMR Docket No. 2012-050, the Board granted relief to an applicant who was erroneously counseled by his Coast Guard recruiter that he was eligible to receive a SELRES bonus. In recommending granting relief, the JAG noted that the recruiter had advised the applicant based on an outdated ALCOAST.

In BCMR Docket No. 2011-221, the Board granted relief to an applicant who was erroneously counseled by his Coast Guard recruiter that he was eligible to receive a SELRES bonus. The Coast Guard recommended that the Board grant the applicant's request because although the applicant was not eligible for a bonus under the applicable ALCOAST, he should nonetheless receive the bonus because he was improperly counseled about his eligibility for the bonus when he enlisted.

## 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 submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application is timely because it was filed within three years of the applicant's discovery of the alleged error or injustice in his record, as required under 10 U.S.C. § 1552(b).

2. The applicant asked the Board to correct his record to show that he is eligible to receive the \$8,000 bonus that he was promised when he enlisted in the SELRES. He alleged that his non-receipt of the bonus is erroneous and unjust because his recruiter promised it to him and because the promise of the bonus induced him to choose the Coast Guard Reserve when he decided to enlist. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in his record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.<sup>1</sup> Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."<sup>2</sup>

3. The JAG argued that the applicant is not eligible to receive a bonus because there was no SELRES bonus available when he enlisted, and the ALCOAST that originally authorized the \$8,000 bonus had expired on December 31, 2010. Although the JAG argued that the applicant is not eligible for the bonus, the Board notes that the Coast Guard recruiter, who was presumably trained to understand the rules of enlistment bonuses, clearly misunderstood the bonus rules because he promised a bonus to the applicant for which he was not eligible. The Board will not assume that the applicant, who had no experience in the military, could understand ALCOAST 119/10 and the enlistment bonus rules when the Coast Guard's own trained recruiter failed to understand or apply them correctly. Moreover, even if the applicant had read and understood ALCOAST 119/10, he could not have known that the bonus was no longer in effect because paragraph 2 of the ALCOAST stated that it would be in effect through December 31, 2010, or "until further notice."

4. The preponderance of the evidence shows that the Coast Guard's recruiter promised the applicant an \$8,000 SELRES bonus for enlisting in the Reserve on May 24, 2011, agreeing to affiliate with the SELRES, and serving in the MK rate for six years, and the recruiter documented that promise in writing. The Board finds that when reasonable, such promises should be kept, especially when a new recruit relies on the erroneous advice of a recruiter and gives due consideration for the promised benefit by enlisting in the Reserve, completing training, and participating satisfactorily as a reservist in accordance with the Reserve Policy Manual. There is no evidence that the applicant would have chosen to enlist in the Coast Guard Reserve had he not been promised the \$8,000 bonus. Moreover, the applicant stated that the promise of

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<sup>1</sup> 33 C.F.R. § 52.24(b).

<sup>2</sup> *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

an \$8,000 bonus was one of the main reasons he chose to enlist in the Coast Guard Reserve instead of one of the other military services.

5. Accordingly, the applicant has proven by a preponderance of the evidence that the Coast Guard's refusal to pay him the \$8,000 enlistment bonus promised to him in writing by his Coast Guard recruiter is erroneous and unjust. His request for correction should be granted, and the bonus should be paid in accordance with the terms of paragraph 5.B. of ALCOAST 119/10.

**(ORDER AND SIGNATURES ON NEXT PAGE)**

**ORDER**

The application of [REDACTED], for correction of his military record is granted. The Coast Guard shall correct his record to show that he is eligible to receive an \$8,000 SELRES enlistment bonus for his Reserve enlistment contract dated May 24, 2011, in accordance with the terms of paragraph 5.B. of ALCOAST 119/10. The Coast Guard shall pay him any amount due as a result of this correction.

November 21, 2014

