

**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. 2015-003**



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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 January 6, 2015, and assigned it to staff member [REDACTED] to prepare the draft decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated September 18, 2015, is 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 maritime enforcement specialist second class (ME2) currently serving in the Coast Guard Selected Reserve (SELRES), asked the Board to correct her record to show that she is eligible to receive the \$8,000 enlistment bonus that she was promised when she enlisted in the Reserve on September 13, 2010. She alleged that she was told that she did not receive the bonus only because of an administrative error by her recruiter. In support of her application she submitted a copy of a Page 7 that she and her recruiter signed on September 13, 2010, 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 September 13, 2016. 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**

The applicant enlisted in the Reserve on September 13, 2010, as an E-3 for a term of eight years. Her record contains a Page 7 dated September 13, 2010, signed by her and her recruiter, which states that she was eligible to receive an \$8,000 SELRES enlistment or affiliation incentive bonus in accordance with the applicable ALCOAST. Her record also contains a copy of an "Annex 'P' – Statement of Understanding," which states that she had been

guaranteed assignment to ME Class “A” School and would be assigned to Port Security Unit (PSU 312) following completion of her initial active duty training. The applicant completed ME Class “A” School on January 26, 2011, but was not paid the bonus.

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

On June 18, 2015, 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 she is not eligible to receive a SELRES bonus because when she enlisted in the SELRES, there was no bonus available for members agreeing to serve in the ME rating. The JAG noted that an \$8,000 SELRES enlistment bonus was available for members agreeing to serve in the MK rating but that the applicant agreed to serve in the ME rating and is currently serving in that rating. Finally, the JAG noted that the Coast Guard has no record that the applicant previously requested payment of the bonus and that she has not indicated that receipt of an enlistment bonus was a factor in her decision to enlist in the Coast Guard.

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

On March 20, 2015, the BCMR sent the applicant a copy of the Coast Guard’s views and invited her to respond within 30 days. On April 22, 2015, she indicated that she had been out of the country and requested an additional 30 days to respond. The Chair granted her request but the Board never received her response to the Coast Guard’s recommendation.

### **APPLICABLE REGULATION**

ALCOAST 119/10, which was in effect from January 1, 2010, through December 31, 2010, authorizes a SELRES bonus for initial enlistments in the SELRES. The ALCOAST authorizes an \$8,000 enlistment bonus only for members who agree to serve in the MK rating for at least six years. Payment of the bonus depends upon the member completing initial training within 18 months and meeting the participation standards in the Reserve Policy Manual. The ALCOAST states that \$4,000 of the bonus will be paid after completion of initial training and \$4,000 will be paid one year later if the participation standards of the Reserve Policy Manual have been met.

### **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 used 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 over this matter pursuant to 10 U.S.C. § 1552.
2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice in her record.<sup>1</sup> Although the applicant alleged that she discovered the error in 2014, she clearly knew previously that she had been promised an \$8,000 bonus and did not receive it. The record shows that based on the erroneous counseling, she should have expected to receive the second of two bonus payments one year after she completed "A" School on January 26, 2011. Therefore, the Board finds that she knew she had not received the promised bonus on or about January 26, 2012. Accordingly, her application is timely.
3. The applicant asked the Board to correct her record to show that she is eligible to receive the \$8,000 bonus that she was promised when she enlisted in the SELRES. She alleged that her ineligibility resulted from an administrative error by her recruiter. 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>2</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>3</sup>
4. The JAG argued that the applicant is not eligible to receive the bonus because the applicable ALCOAST does not authorize any bonus for new members who enlist in the SELRES and choose to affiliate with the ME rating. The applicant, however, was promised the bonus in writing and had no way of knowing the recruiter's promise was erroneous under the applicable ALCOAST based on the language in the Page 7. Given 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 she was not eligible, the Board will not assume that the applicant, who had no experience in the military, could find and understand the then-current enlistment bonus rules when the Coast Guard's own recruiter failed to understand or apply them correctly.

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<sup>1</sup> 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

<sup>2</sup> 33 C.F.R. § 52.24(b).

<sup>3</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).

5. The record shows that the applicant's Coast Guard recruiter promised her an \$8,000 bonus for agreeing to enlist in the SELRES and serve in the ME rating, but the applicable ALCOAST clearly states that the bonus is for members who agree to affiliate with the MK rating. However, the record shows that the applicant agreed to serve in the ME rating, attended ME "A" School, and is currently serving in the ME rating. The preponderance of the evidence shows that the Coast Guard promised the applicant an \$8,000 SELRES bonus for enlisting in the Reserve on September 13, 2010, agreeing to affiliate with the SELRES, participate regularly in the ME rating for six years, and it documented that promise on a Page 7. The Board finds that when reasonable, such promises should be kept, especially when a 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 in accordance with Chapter 4 of the Reserve Policy Manual. There is no evidence that the applicant would have chosen to enlist in the Coast Guard Reserve and serve in the ME rating had she not been promised the \$8,000 bonus.

6. Accordingly, the applicant has proven by a preponderance of the evidence that her Coast Guard recruiter erroneously promised her an \$8,000 bonus in writing as an incentive to enlist in the SELRES and serve in the ME rating. Her failure to receive the bonus constitutes an injustice, and her request for correction should be granted.

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

**ORDER**

The application of ME2 [REDACTED], USCGR, for correction of her military record is granted. The Coast Guard shall correct her record to show that she is eligible to receive an \$8,000 SELRES enlistment bonus for her Reserve enlistment contract dated September 13, 2010, assuming she met the participation standards set forth in Chapter 4 of the Reserve Policy Manual as required by ALCOAST 119/10. The Coast Guard shall pay her any amount due as a result of these corrections.

September 18, 2015

