

**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

LCC  
Docket No 8384-04  
17 Aug 05

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

End: (1) DD Form 149 w/attachments  
(2) History of Assignments  
(3) House settlement statement  
(4) **BAH** rates  
(5) Title 37, Sec 403  
(6) NAVADMIN 230/01  
(7) CNO memo 7220 Ser N130C4/05u0424, 23 Jun 05  
(8) Guidance for **BAH** from ASD, 30 Jun 01

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, the applicable naval record be corrected to show Petitioner was entitled to payment for Basic Allowance for Housing (BAli) for his prior duty station for the period 1 July 2001 through 15 April 2004.

2. The Board, consisting of [REDACTED] [REDACTED] allegations of error and injustice on 6 July 2005 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Prior to filing enclosure (1) with this Board, Petitioner exhausted all administrative remedies afforded under existing law and regulations within the Department of the Navy.

b. Petitioner was assigned to different units and ships in the [REDACTED] area during the period December 1993 through 11 July 1999. During this period, he rented a house at \$1,000.00 per month. Enclosure (2).

c. In July 1999, Petitioner was reassigned to the [REDACTED] home ported in [REDACTED].

d. In September 1999 while stationed on board the [REDACTED] Petitioner purchased the house he was renting. His house payment was \$1,293.00 per month. He commuted daily from place of residence to work. Enclosure (3)

e. Petitioner purchased the house in September 1999 while stationed in the [REDACTED] area based on the BAH allowances for the [REDACTED] area which were considerably higher than the BAR allowances for the [REDACTED] area. Enclosure (4)

f. In February 2000 Petitioner was reassigned from the [REDACTED], [REDACTED] area back to the [REDACTED] area reporting 31 May 2000. Petitioner did not move any household goods at government expense nor did he file a claim for any dependent travel when he was reassigned. He made a low/no cost move and continued to commute daily.

g. Petitioner was unaware of the provisions of the FY 01 National Defense Authorization Act that included authority for Service Secretaries to base housing allowances on the old permanent duty station in situations involving low or no cost moves within the United States. Enclosure (5). Since he was on an operational vessel, he did not have easy information about or knowledge of NAVADMIN 230/01 that disseminated the provisions and established procedures for requesting BAR for the prior duty station. Enclosure (6)

h. Petitioner did not become aware of the availability of BAN for the prior duty station until he reported to NAVIMFACPACNORWEST at [REDACTED] when several other officers previously stationed on the [REDACTED] informed him of the policy. He submitted a request to NPC and they recommended that he submit a request to the Board for Correction of Naval Records.

i. In correspondence attached as enclosure (7), the office having cognizance over the subject matter involved in Petitioner's application recommended denial, commenting that Petitioner does not

meet the requirements for BAH rate protection for a close-proximity move. They go on to say that Petitioner was entitled to a household goods move and that the service member did not suffer a financial inequity because he was living in the same house he lived in when he was assigned to the [REDACTED] area prior to being assigned to the [REDACTED] area.

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (7), the Board finds the existence of an injustice warranting the requested relief. The Board disagrees with the advisory opinion and opined that since the Petitioner was stationed in the [REDACTED] area when he purchased his house that he should have been entitled to BAH for the prior duty station in accordance with Title 10, section 403 and the guidance issued by the Assistant Secretary of Defense on 30 June 2001. See enclosure (8). Petitioner purchased his house in September 1999, while assigned to the [REDACTED] area and receiving the higher BAR rate. See enclosure (4). His house payment was almost \$300.00 more than the amount of his monthly house rent. Also, permanent change of station orders are routinely issued with authority to ship household goods. It is the choice of the service member as to whether or not they use the orders to move at government expense.

RECOMMENDATION:

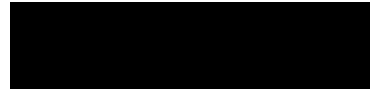
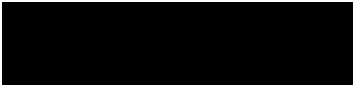
That Petitioner's naval record be corrected, where appropriate, to show that

a. BuPers modified the orders that reassigned Petitioner from the [REDACTED] to the [REDACTED] [REDACTED] to delete the Permanent Change of Station funding citation. Petitioner was reassigned within the same geographical area and was not entitled to travel of dependents or to move HHG5 at government expense.

b. Petitioner was entitled to BAN for the prior duty station for the period 1 July 2001 through 15 April 2004. The prior duty station was [REDACTED] [REDACTED] [REDACTED].

c. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Boards proceedings in the above entitled matter.



5. The foregoing action of the Board is submitted for your review and action.

