



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

LCC
Doc No. 11745-09
11 Mar 11

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

Subj: REVIEW OF NAVAL RECORD ICO
[REDACTED]

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

Encl: (1) DD Form 149 w/attachments
(2) PCS orders
(3) Close Proximity Move Policy
(4) CNO N130 ltr 7220 Ser N130C3/10U0189 of 14 Sep 10
(5) CO NORF Whidbey Island ltr 7220 Ser N1/280 of
18 Nov 09

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show that Petitioner is entitled to Basic Allowance for Housing (BAH) for his prior duty station (PDS) based on a close proximity permanent change of station (PCS) move.

2. The Board, consisting of _____ and _____, reviewed Petitioner's allegations of error and injustice on 22 February 2011 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner received PCS orders reassigning him from USS Abraham Lincoln CVN 72 Everett, WA to NAVOCEANPROFAC Whidbey

Island WA. The orders required Petitioner to detach his old duty station in May 2009. The orders included funding authorization for a household goods (HHG) move. See enclosure (2).

c. Under the "close proximity move policy," members being reassigned from a duty station with a high BAH rate to a duty station with a lower BAH rate may request and, if otherwise qualified, receive BAH based on the previous PDS. To qualify, the member must maintain an established residence, commute daily to their new PDS, and have the approval of their new PDS. Additionally, members must request that the HHG authorization be removed from their orders prior to executing the orders. See enclosure (3).

d. In this case, Petitioner claims, without substantiation, that he contacted his detailer prior to executing his PCS orders and requested the orders be modified to remove the HHG funding citation. As further support for his request, Petitioner submits an e-mail exchange between [REDACTED] and Petitioner's detailer [REDACTED] [REDACTED] US Navy pertaining to a separate request for BAH pertaining to [REDACTED], US Navy. Petitioner argues that the e-mail exchange evidences the detailer's lack of knowledge about the Navy's close proximity move policy.

e. Petitioner executed his orders without first having the HHG authorization removed from the orders. He was not authorized BAH based on his previous PDS.

f. Petitioner has now submitted a request to the Board seeking to remove the HHG authorization from his orders so that he can be entitled to BAH based on his prior PDS.

g. In correspondence attached as enclosure (4), the office having cognizance over the subject matter addressed in Petitioner's application has recommended the request be denied. CNO 130 has commented that Petitioner should have ensured the HHG authorization was removed before he transferred and that there is no authority to change an order after it has been executed.

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (4), the Board concludes that Petitioner's request warrants favorable action. The Board noted that the old PDS and new PDS are in close proximity to each other. Petitioner commutes daily.

Petitioner has the support of his commanding officer. Although the Board found that Petitioner lacked substantiation that he contacted his detailer prior to executing his PCS orders, based on all the circumstances, in the Board's view, Petitioner should be granted the most favorable consideration possible and his record should be changed to qualify him for BAH at the prior PDS.

RECOMMENDATION:

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

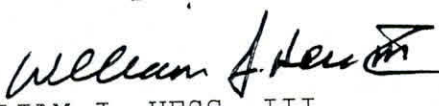
a. On 29 January 2009 COMNAVPERSCOM modified the orders reassigning Petitioner from the USS Abraham Lincoln CVN 72 to NAVOCEANPROFAC Whidbey Island WA to "delete the HHG funding citation" from the Permanent Change of Station Orders. Petitioner was reassigned within the same geographical area and was not authorized travel of dependents or shipment of household goods at government expense.

b. Petitioner was authorized continuation of BAH and station allowances for his prior duty station effective 20 July 2009. The address of the prior duty station was USS Abraham Lincoln CVN 72,

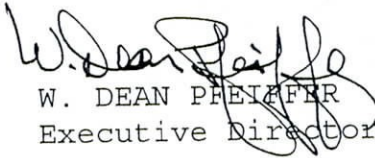
c. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


WILLIAM J. HESS, III
Acting Recorder

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


W. DEAN PFEIFFER
Executive Director

Reviewed and Approved

 3/17/11

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