



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

MEH
Docket No. 8838-10
4 Jan 2011

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) CNO memo 7220 Ser N130D2/10U0806 of 10 Nov 10
(3) CNRC message 302004Z Oct 08
(4) Excerpts from Subject's naval record

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 establish entitlement to an Enlistment Bonus for Source Rate (EBSR) of \$21,000.

2. The Board, consisting of Messrs. George, Pfeiffer, and Zsalman, reviewed Petitioner's allegations of error and injustice on 13 December 2010 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 entered the Delayed Entry Program (DEP) on 25 November 2008 and executed a NAVCRUIT 1133/52, Annex A to the DD Form 4. Annex A reflects the following enlistment guarantees:

"Option (1) ADVANCED ELECTRONICS/COMPUTER FIELD AEF-AECF
Option (2) ENLISTMENT BONUS GUARANTEE \$10,000.00".

Petitioner's scheduled "ship date" under the original DEP contract was 29 September 2009.

c. On 18 December 2008, Petitioner reclassified from the Advanced Electronics Computer Field to the Nuclear Field (Open) Non-Submarine Volunteer (6YO) and changed his "ship date" to October 2009. The changes required a modification to his DEP contract. Accordingly, he executed a NAVCRUIT 1133/52, Annex B to the DD Form 4. Annex B reflects the following enlistment guarantees:

"Option (1) NF (OPEN) NON SUBMARINE VOLUNTEER (6YO)-NF
Option (2) ENLISTMENT BONUS GUARANTEE \$21,000.00 (OCT 09)".

(The NAVCRUIT 1133/52, Annex B superseded the NAVCRUIT 1133/52, Annex A). He also executed a Page 13 Administrative Remarks entry stating he elected to accept the Enlistment Bonus option, vice the Navy College Fund or the Navy College Fund/Enlistment Bonus combination.

d. On 29 January 2009, Petitioner modified his contract for a second time. The modification was made to change Petitioner's ship date to 25 June 2009. To change the contract, Petitioner executed NAVCRUIT 1133/52, Annex C to the DD Form 4. (The NAVCRUIT 1133/52, Annex C superseded the NAVCRUIT 1133/52, Annex B). Annex C reflects the following enlistment guarantees:

"Option (1) NF (OPEN) NON SUBMARINE VOLUNTEER (6YO)
Option (2) NAVY COLLEGE FUND GUARANTEE \$21,000.00 (JUN 09)".

Petitioner shipped to Recruit Training in June 2009.

e. Option (2), as written in Annex C, does not conform with the standard protocol for entering either a "Navy College Fund" guarantee, an "Enlistment Bonus" guarantee or a "Navy College Fund/Enlistment Bonus combination" guarantee into an enlistment contract.¹ Because of the manner in which the guarantee was written, Petitioner has been prevented from receiving payment of any Enlistment Bonus.

f. On 13 August 2010, Petitioner filed an application seeking a change to Annex C that would establish entitlement to a \$21,000 Enlistment Bonus. He explains that when he changed his ship date and executed Annex C, he was under the impression that he would receive an Enlistment Bonus OF \$21,000 and that he would not receive the Navy College Fund.

¹ Any "Navy College Fund" guarantee offered in Annex C for a ship date in June 2009 would/should have been based on CNRC message 302004Z Oct 08 and would/should have been entered on the contract as "NAVY COLLEGE FUND \$350 PER MONTH". Any "Enlistment Bonus" offered would/should have been entered as "ENLISTMENT BONUS GUARANTEE \$21000.00 (JUN 09)". Any "Navy College Fund/Enlistment Bonus Combination" guarantee offered would/should have been entered as "ENLISTMENT BONUS/NAVY COLLEGE FUND COMBINATION \$11,000/\$350 per month". The entry of "NAVY COLLEGE FUND GUARANTEE \$21000.00 (JUN 09)" in the NAVCRUIT 1133/52, Annex C must necessarily be an erroneous combination of the three possible options.

g. In correspondence attached as enclosure (2), CNO N130, the office having cognizance over enlistment incentives, has recommended the request be denied. CNO N130 maintains that the entry of "NAVY COLLEGE FUND GUARANTEE \$21000.00 (JUN 09)", although erroneous on its face, should be interpreted to mean that the applicant contracted for a combination of an \$11,000 Enlistment Bonus plus the Navy College fund (i.e. the "Navy College Fund/Enlistment Bonus Combination").

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (2), the Board concludes that Petitioner's request warrants favorable action. The Board reasoned that Option (2) as written on the Annex C must be erroneous. No "Navy College Fund/Enlistment Bonus Combination" was available that would pay a \$21,000 enlistment bonus. Petitioner has stated that he did not intend to change the amount of the bonus he would receive when he executed Annex C. Annex C does not provide any reason to doubt Petitioner's claim. Moreover, the reason Petitioner executed Annex C in the first place was to change his ship date, not to change his program. Because Option (2) as written on the Annex C is erroneous on its face, the Board finds that deference should be granted to Petitioner's claim and that the contract should be changed to reflect a guarantee of a \$21,000 Enlistment Bonus.

RECOMMENDATION:

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

a. Option (2) of Annex C to the DD Form 4 reflects "Enlistment Bonus Source Rate (EBSR) \$21,000," vice "Navy College Fund Guarantee \$21,000 (JUN09)." All other enlistment guarantees remain the same.

b. 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

 2/14/11

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