



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

[REDACTED]  
Docket No. 780-17  
JUL 25 2017

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

Subj: REVIEW OF NAVAL RECORD ICO  
[REDACTED] USNR RET. [REDACTED]

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

Encl: (1) DD Form 149 w/attachments  
(2) 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 show timely written request to elect spouse coverage under the Reserve Component Survivor Benefit Plan (RCSBP) within one year of the marriage.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 11 May 2017 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. On 26 July 2005, Petitioner received his Notice of Eligibility (NOE) to Participate in the Reserve Component Survivor Benefit Plan. Petitioner did not provide a response to the NOE and was automatically enrolled in "child only" RCSBP coverage on 10 October 2005.

c. Department of Defense guidance dated 5 September 2013 provided that effective 26 June 2013, any person who is married to a same-sex partner may participate in the SBP in the same manner as any other married person.

d. On 5 July 2013, During the gap between the effective date and the publication date of the DoD guidance, Petitioner married [REDACTED]

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[REDACTED] USNR RET, [REDACTED]

## CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the law change that allowed the election of RCSBP for a same sex spouse, the Board finds the existence of an injustice warranting the following corrective action.

## RECOMMENDATION:

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

a. The Petitioner elected Reserve Component Survivor Benefit Plan (SBP) maximum spouse coverage, naming [REDACTED] within one year of the date of his marriage (which occurred on 5 July 2013).

b. Petitioner is responsible for unpaid SBP costs that would have been deducted beginning the first day of the thirteenth month following his marriage to [REDACTED] No waiver of unpaid premiums will be granted.

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

4. 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.

[REDACTED]  
Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

[REDACTED]  
Executive Director