RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-2010-02091

 XXXXXXX COUNSEL: NONE

 HEARING DESIRED: YES

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APPLICANT REQUESTS THAT:

He be given supplemental consideration for promotion to the grade of major (O-4) as a position vacancy (PV) candidate for the Calendar Year 2010 (CY10) Air Force Reserve Line and Health Professions Promotion Selection Board (U0410A).

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APPLICANT CONTENDS THAT:

He was unjustly disqualified from being considered by the contested board. He exceeded all of the prescribed eligibility requirements prior to the date the board convened. Despite repeated assurances from Air Reserve Personnel Center (ARPC) personnel that he would meet the board; his packet was unfairly disqualified the day the board convened because the Participation Summary/History section of his OSB indicated he had not attained a satisfactory year of Federal service in the year immediately prior to the board convening. However, this ruling was erroneous because his retention/retirement (R/R) year, which closed just 12 days prior to the board, was a satisfactory year of Federal service and met the requirements of AFI 36-2504, *Officer Promotion, Continuation, and Selective Early Removal in the Reserve of the Air Force*, and all other public Selection Board Secretariat guidance. Based on the evidence and facts provided, it is clear that he was unjustly prevented from being considered by the contested board.

In support of his request, the applicant provides an expanded statement with 14 attachments, which include copies his OSB, DD Form 214, *Certificate of Release or Discharge from Active Duty*, point credit summary, officer performance report (OPR), promotion recommendation form (PRF), two supporting statements, and various Air Force Departmental Publications and other guidance related to the matter under review.

The applicant’s complete submission, with attachments, is at Exhibit A.

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STATEMENT OF FACTS:

Information extracted from the Military Personnel Data System (MilPDS) indicates the applicant is currently serving in the Air Force Reserve in the grade of captain (O-3), Reserve of the Air Force, effective and with a date of rank of 3 Dec 04.

The top line of the applicant’s Participation Summary/History of his 1 Feb 10 OSB reflects “CIVILIAN STATUS” for the period 26 Mar 08 through 13 Jan 09. However, his 11 Apr 10 Point Credit Summary indicates the R/R year for the period 14 Jan 09 though 13 Jan 10 was a satisfactory year of Federal service, where the applicant earned a total of 146 points.

The remaining relevant facts pertaining to this application are contained in the letter prepared by the appropriate office of the Air Force, which is attached at Exhibit C.

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AIR FORCE EVALUATION:

ARPC/DPB recommends denial, indicating the applicant did not meet the requirement for a fully credited R/R year on the date his nomination package was received, nor on the day the Board convened. AFI 36-2504, paragraph 2.7 requires, among other things, that officers have an outstanding record with at least 50 points for a year of satisfactory service during the last full R/R year at the time of submission of the PRF to be considered by a PV promotion board. While the applicant met all the other requirements for consideration by the contested Board, he had not completed an R/R year as of either 18 Dec 09, or as of the date the Board convened on 1 Feb 10. The posting of a completed and fully credited R/R year requires 365 days of participation, a minimum of 50 points earned, plus approximately 60 additional days for full audit and credit of that year. While the OSB in question reflected the points he had earned since 13 Jan 09, that time was not yet creditable as it had yet to be audited. No member (officer or enlisted) receives credit for a full year of participation until the 60-day audit process is complete. The applicant had a break in service from 26 Mar 08 through 13 Jan 09. On the date the Board convened (1 Feb 10), he met the requirement of a year in an active status, but he did not meet the requirement for a fully credited R/R year. He was not credited with a fully completed year of satisfactory Federal service until 20 Mar 10.

A complete copy of the ARPC/DPB evaluation is at Exhibit C.

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APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant indicates that ARPC/DPA is wrong and continues to be unwilling to take responsibility for their failures to the detriment of Air Force members. They have never once been able to provide any published AFI or policy letter that supports their stance on this matter. The applicant and various commands have made multiple requests for ARPC/DPB to produce any documentation regarding the requirement for a 60-day audit to credit an R/R year. In support of his response, the applicant provides an annotated copy of the ARPC/DPB evaluation and three supporting statements.

A complete copy of the applicant’s response is at Exhibit E.

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THE BOARD CONCLUDES THAT:

1.  The applicant has exhausted all remedies provided by existing law or regulations.

2.  The application was timely filed.

3.  Sufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. The applicant contends he was erroneously disqualified from consideration by the contested promotion board, despite meeting all the known requirements for consideration. After a thorough review of the evidence of record and the applicant’s complete submission, we agree. In this respect, we note the applicant met the requirement, as described in the prescribing directive and other published guidance, to have completed a full satisfactory year of Federal service, with at least 50 points, prior to the date the board convened. We note the comments by the Air Force office of primary responsibility (OPR) indicating that while the applicant met said service requirement, such service was not creditable as it was subject to an audit verification process that was not completed until after the board convened. Nevertheless, we believe the applicant’s disqualification from consideration for promotion constitutes an injustice. In this respect, we note the supporting statements provided by the applicant in response to the Air Force evaluation which indicate the 60-day audit requirement is apparently not prescribed in a reference reasonably available to the force. Accordingly, we recommend his complete record, to include a corrected Officer Selection Brief (OSB) which reflects he was credited with a satisfactory year of Federal service for the retention/retirement (R/R) year closing 13 Jan 10, be considered for promotion by a Special Board under the provisions of 10 USC 1558.

4. The applicant’s case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issues involved. Therefore, the request for a hearing is not favorably considered.

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THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to the APPLICANT be corrected to show that his Officer Selection Brief (OSB), prepared for consideration by the Calendar Year 2010 (U0410A) Air Force Reserve Line and Health Professions Major Promotion Selection Board, be corrected to include in the Participation Summary/History section a satisfactory year of Federal service for the retention/ retirement year 14 Jan 09 through 13 Jan 10, which includes 91 active duty points, 40 inactive duty training points, and 15 membership points, for a total of 146 retirement points.

It is further recommended that his corrected record, to include his corrected OSB, be considered for promotion to the grade of major (O-4) as a position vacancy candidate by a Special Board, under the provisions of 10 USC 1558, for the Calendar Year 2010 Air Force Reserve Line and Health Professions Major Promotion Selection Board (U0110A).

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The following members of the Board considered AFBCMR Docket Number BC-2010-02091 in Executive Session on 10 Mar 11, under the provisions of AFI 36-2603:

 Mrs. XXXXXXXXXX, Panel Chair

 Ms. XXXXXXXXXX, Member

 Ms. XXXXXXXXXX, Member

All members voted to correct the records as recommended. The following documentary evidence was considered:

 Exhibit A. DD Form 149, dated 15 May 10, w/atchs.

 Exhibit B. Applicant's Master Personnel Records.

 Exhibit C. Letter, ARPC/DPB, dated 1 Jul 10.

 Exhibit D. Letter, SAF/MRBR, dated 16 Jul 10.

 Exhibit E. Letter, Applicant, 13 Aug 10, w/atchs.

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 Panel Chair