

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01308
COUNSEL: NONE
HEARING DESIRED: NOT INDICATED

APPLICANT REQUESTS THAT:

1. The Survivor Benefit Plan (SBP) annuity election currently reflected on her military retired pay account be changed from "Spouse only" to "Declination."
 2. SBP premiums previously withheld from her retired pay account be refunded to her.
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APPLICANT CONTENDS THAT:

She did not elect SBP coverage and was not aware that money was being deducted from her retired pay until she received her retiree account statement for 2011.

In support of her request the applicant provides a personal statement, copies of her Retiree Account Statement, and various other documents in support of her request.

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

STATEMENT OF FACTS:

On 7 Jan 2005, the applicant retired from the Air Force Reserves in the rank of lieutenant colonel (Lt Col, O-5).

The remaining relevant facts pertaining to this application, extracted from the applicant's available military records, are contained in the letter prepared by the appropriate Office of Primary Responsibility (OPR). Accordingly, there is no need to recite these facts in this Record of Proceedings.

AIR FORCE EVALUATION:

DFAS-JBJE/CL states the applicant's retired pay account was incorrectly established on 27 Jan 2005 after she submitted the DD Form 2656, *Data for Payment of Retired Personnel*. The DD Form 2656 completed by the applicant and her spouse is considered invalid since the applicant signed the form after her spouse.

JBJE/CL has taken proper action based on the invalid DD Form 2656 that was submitted by the retiree. If the Board determines that corrective action is required to correct the record to show that the spouse signed concurrence prior to the applicant's signature, DFAS will terminate the SBP coverage and provide a refund of SBP premiums withheld. Since the original election date of the SBP is her retirement date, if it is the intention of the Board to provide a refund of all SBP premiums withheld from 1 Feb 2005, the Board's recommendation must state this; otherwise, by law, DFAS is only authorized to refund six years of SBP premiums withheld.

The complete JBJE/CL evaluation, with attachment, is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 30 Aug 2012, a copy of the DFAS evaluation was forwarded to the member for review and comment within 30 days. To date, a response has not been received (Exhibit C).

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.
3. Sufficient relevant evidence has been presented to demonstrate the existence of an error or injustice. In this respect we note that DFAS stated the applicant's retired pay account was incorrectly established on 27 Jan 2005 after she submitted the DD Form 2656. Therefore, we agree with DFAS's recommendation that the applicant's records should be corrected to terminate the SBP coverage and provide a refund of SBP premiums withheld. Accordingly, we recommend the applicant's records be corrected as set forth below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that:

a. On 1 Feb 2005, she declined coverage under the SBP, and her spouse concurred in her decision.

b. She be authorized full reimbursement of all SBP premiums withheld from her retired pay account since 1 Feb 2005.

The following members of the Board considered this application in Executive Session on 27 Nov 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

All members voted to correct the record as recommended. The following documentary evidence was considered in AFBCMR BC-2012-01308:

- Exhibit A. DD Form 149, dated 9 Apr 2012, w/atchs.
- Exhibit B. Letter, DFAS-JBJE/CL, dated 28 Aug 2012, w/atch.
- Exhibit C. Letter, SAF/MRBR, dated 30 Aug 2012.

Panel Chair