

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2002-099

XXXXXX, XXXXX X.
XXX XX XXXX, XXX

FINAL DECISION

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on May 13, 2002, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated March 26, 2003, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST

The applicant asked the Board to order the Coast Guard to pay him the balance owed of \$1,000 on his Reserve enlistment bonus that he was promised when he enlisted for six years on April 26, 1999.

APPLICANT'S ALLEGATIONS

The applicant alleged that when he enlisted in the Reserve, he was promised a \$3,000 enlistment bonus. He alleged that he was counseled on his eligibility for a Level II Selective Reserve Enlistment Bonus, as listed in Commandant Instruction 7220.1A, dated February 5, 1998. In support of his allegations, he submitted a signed copy of a page 7 entry, indicating that on the date he enlisted, he was eligible for a "Level 2 Selective Reserve Enlistment Bonus ... [under] ALDIST 7220.1."

The applicant alleged that his recruiting officer erred in not counseling him about his enlistment bonus eligibility under ALDIST 224/98. He alleged that had he been properly counseled that he was entitled only to a \$2,000 enlistment bonus under ALDIST 224/98, he would not have enlisted in the Reserves.

SUMMARY OF THE APPLICANT'S RECORD

The applicant enlisted in the Coast Guard Reserve in pay grade E-2 on April 26, 1999, for a term of six years. His enlistment contract states that he was eligible to receive a Reserve enlistment bonus. On the same date, he signed a Statement of Understanding for Coast Guard Reserve RP/RL Program, which was annexed to his enlistment contract and documented that he was guaranteed an assignment in the XXXXX (XX) Class "A" School.

Also on April 26, 1999, both the applicant and his recruiter signed a page 7, which states that he was eligible to receive a "Level 2 Selective Reserve Enlistment Bonus as listed in ALDIST 7220.1[A]" Subject to authorizing ALDISTs, under Commandant Instruction 7220.1A, a member may receive up to a \$3,000 bonus for a six-year enlistment in a Level II rating. The applicant received only \$2,000 of the promised \$3,000 enlistment bonus because at the time of his enlistment, the correct enlistment bonus amount of \$2,000 was authorized in ALDIST 224/98, rather than the maximum amount promised by his recruiter under Commandant Instruction 7220.1A.

To date, the applicant continues to serve in the Coast Guard Reserve.

VIEWS OF THE COAST GUARD

On October 22, 2002, the Chief Counsel of the Coast Guard recommended that the Board grant relief by awarding the applicant the promised bonus. The Chief Counsel attached to his advisory opinion a memorandum on the case prepared by Coast Guard Personnel Command (CGPC).

In adopting the analysis of CGPC, the Chief Counsel admitted that the applicant's "recruiter made an administrative error [in] using the Commandant Instruction 7220.1A instead of ALDIST 224/98, which listed the correct enlistment bonus...." He argued that relief should be granted for the additional \$1,000 enlistment bonus because "the applicant based his decision to enlist on this erroneous information."

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On October 28, 2002, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within 15 days. He agreed with the Coast Guard's recommendation.

APPLICABLE LAW

According to 10 U.S.C. § 1552(a)(1), “[t]he Secretary of a military department may correct any military record of the Secretary’s department when the Secretary considers it necessary to correct an error or remove an injustice.”

ALDIST 224/98, issued on September 24, 1998, announced the continuation of bonuses for certain Reserve members who enlisted, reenlisted, or extended their enlistments. Members who were both enlisting for the first time and guaranteed an “A” school assignment were authorized to receive a Level II bonus of \$2,000 for obligating six years of service.

Enclosure (4) to COMDTINST 7220.1A, issued on February 5, 1998, contains the terms of the Selected Reserve (SELRES) Enlisted Bonus Program for members with prior military service. Under section 3.d. of the enclosure, it is provided that “[a] member who enlists for six years in a Level II rating ... may receive a total bonus payment of up to \$3,000.” However, the “[a]uthorizing ALDISTs will specify implementation of the available bonuses and may authorize implementation of lesser dollar amounts....”

PREVIOUS BCMR DECISION

In BCMR Docket No. 1999-027, the applicant had been promised a Reserve enlistment bonus by her recruiter. However, when she finished recruit training, the Coast Guard refused to honor that promise because she was technically ineligible for the bonus since she had never graduated from high school. The Chief Counsel recommended that the Board grant the applicant’s request. He argued that, although the government is not estopped from repudiating erroneous advice given by its officials, relief should be granted because the bonus was promised her, she provided due consideration for it, and she acted promptly when she discovered the error. The Board granted the applicant’s request.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submission, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely.
2. Under COMDTINST 7220.1A and ALDIST 224/98, members who were guaranteed an assignment in “A” school and obligated six years’ of service on an original enlistment were eligible for a Level II Reserve enlistment bonus of \$2,000. Although the applicant obligated six years on his original enlistment contract and was

guaranteed an assignment in XX "A" school, the Coast Guard promised him a \$3,000 enlistment bonus, when ALDIST 224/98 authorized a \$2,000 enlistment bonus.

3. The Board finds, and the Chief Counsel admits, that the Coast Guard erred when it told the applicant he would be eligible for a \$3,000 Level II bonus, even though that amount was not authorized in ALDIST 224/98, the applicable ALDIST at the time of his enlistment.

4. Moreover, the facts of this case are very similar to the facts of BCMR Docket No. 1999-027. Like the applicant in that case, the applicant in the instant case was promised an enlistment bonus by his recruiter, gave due consideration for the bonus and acted promptly upon discovering the error. In Docket No. 1999-027, the Chief Counsel also recommended that the Board grant relief. The Board finds no reason for the result in this case to be different than that in Docket No. 1999-027.

5. Accordingly, the applicant's request should be granted.

ORDER

The application of XXX XXXXXX X. XXXXXX, XXX XX XXXX, USCGR, for the correction of his military record is granted, as follows:

His record shall be corrected to show that he became entitled to an enlistment bonus of \$3,000.00 when he enlisted in the Coast Guard Reserves on April 26, 1999.

The Coast Guard shall pay him the amount due as a result of this correction.

Julia Andrews

Felisa C. Garmon

Dorothy J. Ulmer