

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

Jeffrey Machado & Herik Espinosa,
on behalf of themselves and of
similarly situated individuals,

Plaintiffs,

V.

Deborah Goldberg, in her official capacity
as Treasurer & Receiver General,

Defendant.

COMPLAINT

Docket No. _____

INTRODUCTION

Raising one's right hand and promising to defend this nation in uniform is a noble, selfless, and increasingly rare act. Doing so multiple times—particularly after confronting the heat of battle and horror of war—is even more extraordinary. The Massachusetts Legislature has long chosen to recognize the virtues and sacrifices of those who serve in the armed forces by providing to them special benefits, among them a Welcome Home Bonus for returning post-9/11 servicemembers who deployed to war. However, the State Treasurer—charged with administering the Bonus program—has violated that long tradition by unfairly and unlawfully withholding the Bonus from thousands of Massachusetts veterans.

Among those thousands are Jeffrey Machado and Herik Espinosa. Both enlisted in the Army after September 11th, deployed to Afghanistan in support of Operation Enduring Freedom, and were honorably discharged. Yet, the Treasurer denied them the Welcome Home Bonus, contrary to the Massachusetts Legislature's objective to reward each deployment honorably completed. The Treasurer denied them Bonuses because, rather than leaving the military after

their first enlistments, Mr. Machado and Mr. Espinosa were honorably discharged and immediately reenlisted, but those *subsequent* enlistments ended in less-than-honorable discharges. Those final discharges, given out after the wounds of war and the stress of service became too great, are legally irrelevant for purposes of Mr. Machado's and Mr. Espinosa's eligibility for the Welcome Home Bonus; only the prior periods of service, which the Army had characterized as honorable, have legal significance. In violation of the Welcome Home Bonus statute and federal military law, the Treasurer unlawfully ignored the honorable designations the Army had awarded their prior periods of service and held that the final discharges somehow covered their entire military service and rendered them ineligible for the Bonus.

It is not surprising that the Treasurer unlawfully erred in denying Bonuses to these two wounded warriors. In creating the Welcome Home Bonus program in 2005, the Legislature required that the Treasurer develop and administer an appeals system to adjudicate disputes regarding eligibility. But for more than ten years afterward, the Treasurer violated the law by failing to create any appeals process whatsoever and failing to advise denied applicants of their statutory appeal rights. The Treasurer also never promulgated regulations governing the Bonus program. With the assistance of counsel, Mr. Machado and Mr. Espinosa were able to inquire about and then initiate appeals. That led the Treasurer to finally create an appeals system and to hold, in March 2017, its first ever Veterans' Bonus Appeal Board hearings.

The Treasurer's process in Mr. Machado's and Mr. Espinosa's appeals provided neither procedural nor substantive justice. In denying their applications and appeals, the Treasurer violated the statute governing the Welcome Home Bonus Program, disregarded relevant federal military law, unlawfully conferred dispositive significance on a single document while ignoring other material evidence, and accorded different and unequal treatment to the applications of

active duty servicemembers who had been discharged compared to the applications of other classes of servicemembers.

Mr. Machado and Mr. Espinosa—on behalf of themselves and other similarly situated veterans who honorably served their country in a time of war—now ask this Court to review those unlawful actions, to hold them in violation of Massachusetts General Laws Chapter 30A, the Massachusetts Declaration of Rights, and the United States Constitution, and as the Massachusetts Legislature intended, to grant these veterans the honor, reward, and recognition that they earned.

PARTIES

1. Plaintiff Jeffrey H. Machado is a disabled United States Army combat veteran who served in Afghanistan. He grew up in and enlisted from Peabody, Massachusetts.

2. Plaintiff Herik M. Espinosa is a disabled United States Army veteran who served in Afghanistan. He grew up in and enlisted from Lawrence, Massachusetts.

3. Defendant Deborah B. Goldberg is the Treasurer and Receiver General of Massachusetts. In that capacity, she is responsible for the operation and administration of the Department of the State Treasurer and the Welcome Home Bonus Program throughout the Commonwealth of Massachusetts. She maintains offices for the conduct of business at the State House, 24 Beacon Street and at 1 Ashburton Place, Boston, Massachusetts. She is sued in her official capacity. The Department of the State Treasurer is an agency within the meaning of M.G.L. c. 30A, §§ 1, 14.

JURISDICTION

4. This Court has jurisdiction to hear this case and to order the relief sought pursuant to M.G.L. c. 30A, § 14; M.G.L. c. 212, § 4; M.G.L. c. 214, § 1; M.G.L. c. 231A, § 1; Chapter 130 of the Acts of 2005, § 16; and 28 U.S.C. § 1983.

LEGAL FRAMEWORK

I. The Welcome Home Bonus Program

5. In 2005, the Massachusetts Legislature continued a long tradition of providing special benefits to Massachusetts residents who serve in the armed forces and deploy abroad by creating a Welcome Home Bonus Program for post-9/11 servicemembers. To recognize and honor the service and sacrifices of Massachusetts servicemembers, the Program grants up to \$1,000 each time a servicemember deploys to Iraq or Afghanistan and \$500 to each servicemember who served at least six months on active duty abroad or stateside. Chapter 130 of the Acts of 2005, § 16; Chapter 132 of the Acts of 2009, § 11.

6. The Massachusetts Department of the State Treasurer, under the direction of the Treasurer and Receiver General and through the Veterans' Bonus Division (Division), administers the Welcome Home Bonus program as well as similar bonus programs for World War II, Korean War, and Vietnam War veterans. See generally Chapter 731 of the Acts of 1945; Chapter 440 of the Acts of 1953; Chapter 646 of the Acts of 1968; Chapter 130 of the Acts of 2005, § 16; Chapter 112 of the Acts of 2010, § 32.

7. There are three basic criteria for eligibility for the Welcome Home Bonus Program: that the servicemember have been in the Commonwealth for at least six months prior to entry into service; that the servicemember have performed active duty in the United States armed forces either in Afghanistan or Iraq or for a period of six months or more elsewhere in the

world; and that the servicemember have been “discharged or released” “under honorable conditions” from “such service” in Iraq, Afghanistan, or elsewhere. Chapter 130 of the Acts of 2005, § 16.

8. The servicemember can have served in any of the armed forces, including the National Guard and Reserve Components, so long as the service was on active duty, not for training. Chapter 130 of the Acts of 2005, § 16.

9. Also, the servicemember may apply either when still on active duty or after being discharged or released from the qualifying period of active duty service. Chapter 130 of the Acts of 2005, § 16. There is no deadline to submit an application. Id.

10. The criteria that the Massachusetts Legislature chose for the Welcome Home Bonus Program are separate and distinct from the general definition of a “veteran” set forth in the statutory definitions section of Massachusetts law. See M.G.L. c. 4, § 7, cl. 43. That general definition specifically directs attention to the former servicemember’s “last discharge” from the armed forces, and requires that the discharge be “under honorable conditions” but not “dishonorable.” Id. In contrast, for the Welcome Home Bonus, the Massachusetts Legislature requires that the discharge from “such service” in Iraq, Afghanistan, or elsewhere be “under honorable conditions”—and does not impose any limitation on or requirement for the “last discharge.” Chapter 130 of the Acts of 2005, § 16.

11. The State Treasurer has not promulgated regulations concerning the Welcome Bonus Program or bonus programs generally. See generally 960 C.M.R. § 2.01 et seq. (regulations of the Office of the State Treasurer and Receiver General). The Veterans’ Bonus Division does have an internal Policies and Procedures Manual (Manual) and other policy

directives that set forth instructions and guidance on processing Bonus applications. See Exhibit A, Veterans' Bonus Division Policies & Procedures Manual (2016) (excerpt).¹

12. According to the Division's Manual, in determining whether a discharged applicant is eligible for the Welcome Home Bonus, the Division should obtain a completed application, proof of residency, and a copy of the applicant's DD 214. See Ex. A, Manual at 12. The DD 214 is a Department of Defense Form issued to every servicemember at the end of each continuous period of active duty service. The Form documents basic information about the servicemember's time in service such as deployments, medals and awards, and character of service. As described in detail below, an active duty servicemember who serves multiple enlistments consecutively will receive only one DD 214 at the time of the final discharge from service and that DD 214 will document the character of service assigned to the last enlistment.

13. The Division's Manual acknowledges that the DD 214 may be inaccurate or may not contain all of the information needed to determine an applicant's eligibility. See id. The Manual therefore directs Division employees to "contact the applicant and request additional documentation displaying the required information" if needed. Id.

14. The Massachusetts Legislature required that the Treasurer establish an appeals board, composed of designees from the State Treasurer, Adjutant General, and Attorney General, so that any person denied the Welcome Home Bonus may seek review of that decision. Chapter 130 of the Acts of 2005, § 16. Every applicant possesses not only a right to a hearing before the Veterans' Bonus Appeal Board (Board), but also rights to notice of the decisions on application and appeal and notice of the right to appeal. If denied after a hearing, the applicant has a right to

¹ Plaintiffs submit here the most relevant excerpts of the Manual in the interests of efficiency and brevity. Plaintiffs can submit the complete Manual to the Court upon request.

judicial review in Superior Court. M.G.L. c. 30A, § 14; Chapter 130 of the Acts of 2005, § 16; 801 C.M.R. §§ 1.02.

II. Enlistment in and Discharge from the United States Armed Forces

15. Men and women who choose to enlist in the armed forces do so for fixed periods of time with the terms set forth in time-limited enlistment contracts. See 10 U.S.C. § 513.

16. If an enlisted servicemember wishes to continue serving beyond that first enlistment then, prior to reaching the Expiration of Term of Service (ETS) date, the servicemember must reenlist and agree to a new enlistment contract. 10 U.S.C. § 508(b). See Marine Corps Order (MCO) 1900.16F § 1007(7)(b).

17. Enlistment contracts run consecutively, not concurrently. Prior to beginning a reenlistment contract, the service branch discharges the servicemember from his or her current contract. Military Regulations dictate that a discharge for purposes of immediate reenlistment is “honorable.” A servicemember whose conduct is not honorable is not permitted to reenlist. 10 U.S.C. § 508(a). See Department of Defense Instruction (DODI) 1332.14, enc. 3, § 2(a)(4); Army Regulation (AR) 635-8 § 16-3; Air Force Instruction (AFI) 36-3208 §§ 2.10, 2.12.

18. Military Regulations govern the creation of a DD 214, which is a summary of the servicemember’s “most recent period of continuous active duty” and provides “a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of . . . discharge.” AR 635-8 § 5-1. See Bureau of Naval Personnel Instruction (BUPERSINST) 1900.8D § 4. A DD 214 will be prepared when an active duty servicemember is terminated from active duty due to separation or when a National Guard or Reserve servicemember is released from active duty to return to Guard or Reserve status. Critically for this case, a DD 214 will not be prepared when an active duty servicemember is discharged for immediate reenlistment. AR

635-8 §§ 5-1, 5-2; Bureau of Naval Personnel Manual (BUPERSMAN) 1900.8D, enc. 1 § 1(b)(1); AFI 36-3202, table 2; MCO 1900.16F § 1202(3)(a).

19. There are five standard discharge characterizations that can be assigned to an enlisted servicemember at the time of discharge: Honorable, Under Honorable Conditions (General), Other Than Honorable, Bad Conduct, and Dishonorable. DODI 1332.14, enc. 4 § 3(b)(2). The Other Than Honorable, Bad Conduct, and Dishonorable characterizations are considered “less-than-honorable” or “bad-paper” discharges.

20. The discharge characterization listed on a servicemember’s DD 214 is generally based only on conduct and performance during the most recent enlistment and describes only the most recent enlistment period. DODI 1332.14, enc. 4 § 3(b)(3). See AR 635-200 § 3-5(e)(2); Naval Military Personnel Manual (MILPERSMAN) 1910-306 § 1; AFI 36-3208 § 1.20; MCO 1900.16F § 1004(4)(a)(1). Prior honorable service and any immediate reenlistments during the continuous active duty period should be documented on the DD 214. See AR 635-8 § 5-6(r)(4).

STATEMENT OF FACTS

I. Mr. Machado's Service in the United States Army

21. Jeffrey Machado was born in Salem and graduated from Peabody Veterans Memorial High School.

22. He enlisted in the Army, entering active duty in March 2011 with a contract to serve two years, sixteen weeks, which he later volunteered to extend for seven months in order to deploy to Afghanistan.

23. In December 2012, Mr. Machado deployed to Afghanistan, Regional Command South, in support of Operation Enduring Freedom.

24. Although he had initially enlisted as an infantryman, because of his language ability, military skills, and intellect, Mr. Machado was assigned as a member of the Company Intelligence Support Team, which gathered information from the local populace in order to lessen the threats from Improvised Explosive Devices (IEDs). Mr. Machado thus served on the front lines of the fighting, gathered information on patrols, and engaged with the local community using his Pashto language skills.

25. Mr. Machado was a dedicated and brave Soldier, who on one occasion sprinted through a field known to contain IEDs to rescue and evacuate Soldiers who had been injured in daisy-chain IED explosions. Rifle Platoon Leader Captain Christopher Gackstatter, who deployed with Mr. Machado, later remarked: "Jeffrey's actions that day proved that he believes and lived up to the values that the United States Army asks of young men and women who serve our nation. If these actions do not represent honorable service, and dedication to our nation, I am at a loss for words to describe what does."

26. While deployed, Mr. Machado reenlisted in the Army, agreeing to serve another six years. Pursuant to Army Regulations, Mr. Machado was honorably discharged for purposes of reenlistment and then immediately reenlisted under a new enlistment contract. The command hosted a reenlistment ceremony in honor of Mr. Machado and his fellow Soldiers who chose to continue serving their country in the armed forces.

27. For his service in Afghanistan, Mr. Machado earned the Combat Infantry Badge, Afghanistan Campaign Medal with Campaign Star, and NATO Medal. He also later earned an Army Good Conduct Medal, indicating that he had no record of disciplinary issues during three years of service.

28. However, the deployment took a mental and physical toll on Mr. Machado, and he was later diagnosed with combat-related Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI). After being discharged, the Department of Veterans Affairs (VA) found that Mr. Machado was 100% disabled based on those service-connected wounds of war.

29. After Mr. Machado redeployed to the United States in August 2013, he struggled with symptoms of PTSD and TBI, and he tried desperately to get treatment and support. He began having issues in his marriage, and in May 2014, he was flagged for investigation related to altercations with his wife and ordered not to contact her. When he then tried to text and call her after being released from an in-patient psychiatric hospitalization, his command initiated separation and court-martial proceedings that led to a discharge under Other Than Honorable conditions in September 2014.

30. Pursuant to Army Regulations, Mr. Machado received one DD 214 for his second enlistment, which included information about his first enlistment, and did not receive a DD 214 for his first enlistment.

31. In violation of Army Regulations, the DD 214 that Mr. Machado received failed to indicate that he had an “Immediate Reenlistment” and a period of “Continuous Honorable Active Service” encompassing his first enlistment contract. See AR 635-8 § 5-6(r)(4).

II. Mr. Machado’s Application & Appeal for the Welcome Home Bonus

32. In August 2016, Mr. Machado applied for a Welcome Home Bonus to the Veterans’ Bonus Division at the Department of the State Treasurer. With his application, he submitted a cover letter, a copy of his DD 214, and the VA’s determination that his service was “honorable” and qualified him for federal veteran benefits.

33. The Division denied Mr. Machado's application, notifying him in a letter dated August 30, 2016, that the basis of the denial was "Character of Service listed as under other than honorable on the DD214." The letter did not state anywhere that Mr. Machado had a right to appeal the denial and to have a hearing before the Veterans' Bonus Appeal Board.

34. Indeed, at the time that the Division denied Mr. Machado, no appeals system existed—contrary to the originating statute's mandate that every applicant had a right to appeal and its designation of who must serve on the appeals tribunal.

35. Counsel for Mr. Machado called the Division to inquire about appealing a denial and submitted a public records request for information about any instructions, guidance, or policies related to appeals. On or about November 16, 2016, the Division created its first policy regarding an appeals process for the Welcome Home Bonus program. See Exhibit B, Veterans' Bonus Division Procedures Related to Veterans' Bonus Appeals (Nov. 2016). The Division also revised its Denial Letter Template to comply with its statutory and constitutional obligation to inform applicants of their statutory right to appeal. Compare Exhibit C, Veterans' Bonus Division Denial Letter Template (2008-2016) with Exhibit D, Veterans' Bonus Division Denial Letter Template (Nov. 2, 2016).

36. On November 16, 2016, Mr. Machado, with the assistance of counsel, sent a letter appealing the Division's determination and requesting a hearing before the Board.

37. At a hearing on March 8, 2017, Mr. Machado appeared with counsel and presented to the Board personal testimony, expert witness testimony, letters of support, and documentary evidence to establish that he met the criteria for the Welcome Home Bonus. Specifically, Mr. Machado demonstrated that he enlisted from Massachusetts and was honorably discharged from his service in Afghanistan upon his reenlistment.

38. By decision dated May 30, 2017, the Board denied Mr. Machado's appeal.² The Board found that one piece of evidence—the DD 214—determined the entire case. Specifically, the Board held that, because the DD 214 included some information about the first enlistment, the Other Than Honorable characterization assigned to the final enlistment superseded the prior Honorable discharge and therefore rendered him ineligible for the Bonus. The Board also held that, although the Division considers evidence besides a DD 214 in applications by servicemembers still on active duty, consideration of any evidence beyond the DD 214 was unnecessary and all of the other evidence Mr. Machado submitted was irrelevant here.

39. According to the Board, "Where a DD-214 is available for a period of service, as it is here, the military's characterization of service applies to that entire period, and is dispositive for purposes of Bonus Division decisions." In re Machado at 6.

40. The Board's findings ignore service branch regulations that servicemembers discharged for reenlistment shall not receive a DD 214 at that juncture and that a discharge for reenlistment is characterized as honorable.

41. The Board's decision also drew a legally insignificant distinction between applications submitted by servicemembers still on active duty and those submitted by discharged servicemembers. The Board failed to account for the fact that Mr. Machado could have applied for a Bonus when he returned from his deployment to Afghanistan and been approved, and that the Treasurer does not require a DD 214 for active duty applicants but instead looks to other evidence of good standing. By disregarding the governing statute and any evidence beyond the DD 214, the Treasurer denied Mr. Machado a benefit after his right to that benefit already vested and accorded him different and unequal treatment.

² The decision is incorrectly titled In re James Machado. However, Mr. Machado's first name is Jeffrey.

III. Mr. Espinosa's Service in the United States Army

42. Mr. Espinosa immigrated to the United States as a child, grew up in Lawrence, and graduated from Andover High School.

43. He enlisted in the United States Army for a four-year term of service, entering active duty in November 2004. He served in food inspection, ensuring that the food and dining conditions of his fellow Soldiers were safe.

44. After extending his initial enlistment, Mr. Espinosa reenlisted in the Army in February 2008.

45. In 2011, Mr. Espinosa volunteered to deploy to Afghanistan with a unit that was short-staffed. The unit needed a preventative medicine specialist, and so Mr. Espinosa underwent additional training in order to perform those duties.

46. In May 2011, Mr. Espinosa deployed to Afghanistan in support of Operation Enduring Freedom and was stationed at Bagram Air Force Base. When he was not fulfilling his assigned duties, he volunteered at the Trauma Clinic, comforting wounded Soldiers.

47. According to Captain Amanda Jones, Mr. Espinosa's commanding officer during the deployment, "[d]espite difficult living conditions, Sergeant Espinosa always maintained a professional demeanor and a positive attitude" and he "acted as an exceptional leader to his subordinates."

48. The constant danger and regular attacks of the deployment weighed on Mr. Espinosa, and the physical demands of his duties wore on him. After he was discharged and applied to the VA for disability compensation, the VA rated at 90% his service-connected disabilities, which included a diagnosis of Post-Traumatic Stress Disorder.

49. After redeploying, Mr. Espinosa faced further significant challenges at home: his wife left him and moved to another state with their son, and he was diagnosed with cancer.

50. Mr. Espinosa, however, was determined to continue serving his country. He underwent cancer treatment, declining a medical discharge, and reenlisted in February 2015. During that reenlistment, as with his prior one, he was honorably discharged in order to reenlist, acknowledged at a reenlistment ceremony, and awarded an Honorable Discharge Certificate.

51. However, Mr. Espinosa was discharged in February 2016 after he agreed to help a friend obtain drugs, and his final term of service was characterized as Other Than Honorable.

52. Like Mr. Machado, pursuant to Army Regulations, Mr. Espinosa received only one DD 214 for his third enlistment, which included information about his first and second enlistments, and did not receive DD 214s for either of those prior enlistments.

53. In accordance with Army Regulations, the DD 214 that Mr. Espinosa received documented that he had a period of “Continuous Honorable Active Service” encompassing his first and second enlistment contracts. See AR 635-8 § 5-6(r)(4). However, contrary to those same regulations, the DD 214 noted an incorrect end date for that period of honorable service and failed to indicate that he had “Immediate Reenlistments.” Id.

IV. Mr. Espinosa’s Application & Appeal for the Welcome Home Bonus

54. In 2016, Mr. Espinosa applied for a Welcome Home Bonus to the Veterans’ Bonus Division.

55. The Division denied Mr. Espinosa’s application, notifying him in a letter dated November 14, 2016, that the basis for the denial was: “The Character of Service on the DD214 that you provided is listed as Under Other than Honorable Conditions. The Character of Service must be Honorable or General Under Honorable Conditions to receive the bonus.”

56. On December 23, 2016, Mr. Espinosa, with the assistance of counsel, sent a letter appealing the Division's determination and requesting a hearing before the Board. Included with that letter were copies of Mr. Espinosa's February 2015 Honorable Discharge Certificate and Oath of Reenlistment.

57. At a hearing on March 8, 2017, Mr. Espinosa appeared with counsel and presented personal testimony, letters of support, and documentary evidence to establish that he met the criteria for the Welcome Home Bonus. Specifically, Mr. Espinosa established that he enlisted from Massachusetts and was honorably discharged upon reenlistment after serving in Afghanistan.

58. By decision dated May 30, 2017, the Board denied Mr. Espinosa's appeal. As in its decision on Mr. Machado's appeal, the Board found the DD 214 dispositive, refused to grant any weight to the other evidence, and held that the Other Than Honorable characterization assigned to the third enlistment nullified Mr. Espinosa's two prior Honorable discharges.

59. The Board explained, in part, "In a separate appeal which we also decide today, In re Machado, 2017-VB-002 (2017), we rejected this argument. We concluded in Machado, as we do here, that the military's characterization of service shown on the DD-214 applies to whatever period of service is printed in the 'Record of Service' section, and that it supersedes prior characterizations made by the military during that covered period, including re-enlistments." In re Espinosa at 4.

60. As in its decision regarding Mr. Machado's appeal, the Board ignored clear military regulations that direct that the discharge characterization listed on the DD 214 relates only to the most recent enlistment and that any discharge for purposes of reenlistment is expressly honorable.

61. Also like the decision on Mr. Machado's appeal, the Board's decision here drew a legally insignificant distinction between applications submitted by servicemembers still on active duty and those submitted by discharged servicemembers. The Board failed to account for the fact that Mr. Espinosa could have applied for a Bonus when he returned from his deployment to Afghanistan and been approved, and that the Treasurer does not require a DD 214 for active duty applicants but instead looks to other evidence of good standing. By disregarding the governing statute and any evidence beyond the DD 214, the Treasurer denied Mr. Espinosa a benefit after his right to that benefit already vested and accorded him different and unequal treatment.

V. A Class of Massachusetts Post-9/11 Veterans Who Served Honorably, But Faced Challenges in Later Years of Their Service

62. The honor and burden of military service is being borne by fewer and fewer men and women. The veterans population is decreasing in numbers, and less than 2 percent of the U.S. population has served in the post-9/11 era. See Department of Veterans Affairs, Veterans by Period of Service (2015); Census Bureau, Quick Facts (2017).

63. From 2000 to 2010, more than 150,000 men and women living in Massachusetts volunteered to serve on full-time active duty in the Army, Navy, Air Force, and Marine Corps. See Department of Defense, Accession Data by Zip Code (2000-2010).

64. Statistically, the vast majority of active duty servicemembers—about 98 percent—serve at least six months on active duty. With variations among the service branches and by year, between 20 percent and 60 percent of enlisted servicemembers re-enlist in order to continue serving in uniform. See Department of Defense, Enlisted Active Duty Separations by Character of Service (2000-2012); RAND, How Have Deployments During the War on Terrorism Affected Reenlistment? (2009).

65. While most veterans are honorably discharged, an unprecedented percentage of post-9/11 veterans are separated from the armed forces under less-than-honorable conditions. Approximately 6.8 percent of post-9/11 veterans receive an Other Than Honorable or worse discharge characterization. See Veterans Legal Clinic, Underserved (2016).

66. A less-than-honorable discharge may be assigned because of some issue or misconduct that occurred during service. Often, that misconduct is related to a physical or mental health condition, such as Post-Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI), that is connected to military service. Indeed, a May 2017 report of the Government Accountability Office found that 62 percent of servicemembers separated for misconduct from fiscal years 2011 through 2015 had been diagnosed within the prior two years with PTSD, TBI, or another mental health condition. See Government Accountability Office, Actions Needed to Ensure Post-Traumatic Stress Disorder and Traumatic Brain Injury Are Considered in Misconduct Separations (2017). Scientific research has likewise found that Marine Corps combat veterans with PTSD are 11 times more likely to be discharged for misconduct than their peers who do not have PTSD. See Robyn Highfill-McRoy et al., Psychiatric Diagnoses and Punishment for Misconduct: The Effects of PTSD in Combat-Deployed Marines (2010).

67. Pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure, Mr. Machado and Mr. Espinosa bring this action on behalf of themselves and a class of all other similarly situated individuals.

68. The class consists of all former enlisted servicemembers from Massachusetts who served on full-time active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard for at least six months since September 11, 2001; who reenlisted for a second or subsequent term and were honorably discharged in order to reenlist; whose final discharge or release was less-

than-honorable; and who have applied for or may in the future apply for a Welcome Home Bonus.

69. The class members are so numerous that joinder of all members in this action would be impracticable. Based on the figures and statistics set forth above, a reasonable approximation of the class size is 4,000 members.

70. The size and nature of this class make a class action superior to other potential forms of adjudication.

71. There are questions of law and fact common to the class that predominate over questions affecting each individual members of the class. The principal common questions are:

- a. Whether the Treasurer, in administering the Welcome Home Bonus, may adopt a custom, policy, or practice of disregarding federal law and regulations that specify that a discharge for purposes of reenlistment is an honorable discharge;
- b. Whether the Treasurer, contrary to federal law and regulations, may adopt a custom, policy, or practice of holding that a less-than-honorable characterization assigned to a servicemember's last enlistment supersedes and nullifies any prior honorable discharge for purposes of the Welcome Home Bonus;
- c. Whether the Treasurer's custom, policy, or practice of denying the Welcome Home Bonus based solely on a single piece of evidence—the DD 214—without according any weight to other evidence, violates state and federal law, the Massachusetts Declaration of Rights, and the United States Constitution;
- d. Whether the Treasurer's custom, policy, or practice of according different and unequal treatment to the applications of former active-duty servicemembers who have been discharged compared to the applications of current active-duty

servicemembers and of National Guard and Reserve servicemembers violates state and federal law, the Massachusetts Declaration of Rights, and the United States Constitution;

- e. Whether the Treasurer's failure to promulgate regulations and creation of rules of general application and future effect without notice and comment violates the Massachusetts Administrative Procedure Act; and
- f. Whether class members are entitled to declaratory judgment.

72. Mr. Machado's and Mr. Espinosa's claims are typical of the claims of the class. The Treasurer applied the same customs, policies, and practices set forth above to decide their applications for and deny them their right to the Welcome Home Bonus.

73. Mr. Machado and Mr. Espinosa will fairly and adequately protect the interests of all class members in pursuing this action. By seeking enforcement of their right to the Bonus under state law, the Massachusetts Declaration of Rights, and the United States Constitution and by seeking declaratory relief, Mr. Machado and Mr. Espinosa are protecting the interests of all class members.

CLAIMS FOR RELIEF

I. Violation of Massachusetts Administrative Procedure Act c. 30A as to Mr. Machado

- 74. All the foregoing paragraphs are incorporated herein as if realleged.
- 75. This claim is brought pursuant to M.G.L. c. 30A § 14.
- 76. Defendant failed to follow the United States Constitution, Massachusetts Declaration of Rights, and federal and state law in deciding Mr. Machado's application for the Welcome Home Bonus.

- 77. The errors of Defendant included, but were not limited to, the following:

- a. Defendant determined that the honorable discharge for purposes of reenlistment that Mr. Machado earned was not sufficient to earn the Welcome Home Bonus;
- b. Defendant held the DD 214 and the characterization listed there were dispositive, without regard for other evidence and contrary to military regulations; and
- c. Defendant denied Mr. Machado's application submitted after discharge when the application of a similarly situated applicant still on active duty or serving in the National Guard or Reserves would not have been denied.

78. Mr. Machado has substantial rights regarding the Welcome Home Bonus under M.G.L. c. 30A and has a property interest in that benefit.

79. Defendant prejudiced the substantial rights of Mr. Machado in violation of constitutional provisions, in excess of statutory authority, based on an error of law, made upon unlawful procedure, unsupported by substantial evidence, in an arbitrary and capricious manner, and in abuse of discretion in violation of M.G.L. c. 30A.

II. Violation of Massachusetts Administrative Procedure Act c. 30A as to Mr. Espinosa

80. All the foregoing paragraphs are incorporated herein as if realleged.

81. This claim is brought pursuant to M.G.L. c. 30A § 14.

82. Defendant failed to follow the United States Constitution, Massachusetts Declaration of Rights, and federal and state law in deciding Mr. Espinosa's application for the Welcome Home Bonus.

83. The errors of Defendant included, but were not limited to, the following:

- a. Defendant determined that the honorable discharge for purposes of reenlistment that Mr. Espinosa earned was not sufficient to earn the Welcome Home Bonus;

- b. Defendant held the DD 214 and the characterization listed there were dispositive, without regard for other evidence and contrary to military regulations;
- c. Defendant denied Mr. Espinosa's application submitted after discharge when the application of a similarly situated applicant still on active duty or serving in the National Guard or Reserves would not have been denied; and
- d. Defendant denied Mr. Espinosa's application with citation to a rule set forth in a prior decision that was not publicly available, that was not provided him by the Board, and to which he had no opportunity to respond.

84. Mr. Espinosa has substantial rights regarding the Welcome Home Bonus under M.G.L. c. 30A and has a property interest in that benefit.

85. Defendant prejudiced the substantial rights of Mr. Espinosa in violation of constitutional provisions, in excess of statutory authority, based on an error of law, made upon unlawful procedure, unsupported by substantial evidence, in an arbitrary and capricious manner, and in abuse of discretion in violation of M.G.L. c. 30A.

III. Violation of Massachusetts Administrative Procedure Act c. 30A

86. All the foregoing paragraphs are incorporated herein as if realleged.

87. This claim is brought pursuant to M.G.L. c. 30A § 7 and M.G.L. c. 231A.

88. Defendant created rules of general application and future effect without issuing public notice, providing an opportunity for public comment, or otherwise complying with the requirements of the Massachusetts Administrative Procedure Act, M.G.L. c. 30A.

89. Defendant adopted a rule that the characterization listed on a DD 214 supersedes prior characterizations, characterizes all periods of active duty service, and is dispositive. That

rule directly contradicts federal law and regulation governing separation from the armed forces and was adopted without proper process.

90. Furthermore, without proper process, Defendant adopted a rule that in cases where a DD 214 exists, other evidence as to characterization shall not be considered or shall have no weight.

91. Defendant's procedurally and substantively defective rules violate M.G.L. c. 30A §§ 2, 3, and 5.

IV. Violation of Right to Due Process of Law Under Massachusetts Declaration of Rights

92. All the foregoing paragraphs are incorporated herein as if realleged.

93. This claim is brought pursuant to M.G.L. c. 212 § 4 and M.G.L. c. 214 § 1.

94. Defendant denied Mr. Machado, Mr. Espinosa, and class members the Welcome Home Bonus that they had earned by their honorable service without due process of law in violation of the Massachusetts Declaration of Rights, Part I, Articles II, X, and XII.

95. Defendant granted dispositive weight to a single piece of evidence—the DD 214—and failed to accord due consideration to other material evidence in considering the applications of Mr. Machado, Mr. Espinosa, and class members, thus denying them the Welcome Home Bonus without due process of law in violation of the Massachusetts Declaration of Rights, Articles II, X, and XII.

96. Mr. Machado, Mr. Espinosa, and class members have a property interest in the Welcome Home Bonus, which they earned by their honorable service.

97. Defendant's refusal to award the Welcome Home Bonus to Mr. Machado, Mr. Espinosa, and class members deprives them of their property without due process of law.

V. Violation of Right to Due Process of Law Under United States Constitution

98. All the foregoing paragraphs are incorporated herein as if realleged.

99. This claim is brought pursuant to 42 U.S.C. § 1983.

100. Defendant, acting under color of state law, denied Mr. Machado, Mr. Espinosa, and class members rights secured to them under the Due Process Clause of the Fourteenth Amendment to the United States Constitution by denying them the Welcome Home Bonus that they had earned by their honorable service and by granting dispositive weight to the DD 214 while failing to accord due consideration to other material evidence when considering their applications.

101. Mr. Machado, Mr. Espinosa, and class members have a property interest in the Welcome Home Bonus, which they earned by their honorable service.

102. Defendant's refusal to award the Welcome Home Bonus to Mr. Machado, Mr. Espinosa, and class members deprives them of their property without due process of law.

103. Defendant's custom, policy, or practice of according dispositive weight to the DD 214 while failing to accord due consideration to other material evidence in adjudicating applications and of denying the Welcome Home Bonus to Mr. Machado, Mr. Espinosa, and class members violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

VI. Violation of Right to Equal Protection of Law Under Massachusetts Declaration of Rights

104. All the foregoing paragraphs are incorporated herein as if realleged.

105. Defendant denied Mr. Machado, Mr. Espinosa, and class members the Welcome Home Bonus that they had earned by their honorable service without equal protection of law in violation of the Massachusetts Declaration of Rights, Articles I, IV, VII, X, and CVI.

106. Defendant accorded different and unequal treatment to the applications of discharged active duty servicemembers including Mr. Machado, Mr. Espinosa, and class members compared to the applications of current active duty servicemembers in violation of equal protection of the law guaranteed by the Massachusetts Declaration of Rights, Articles I, IV, VII, X, and CVI.

107. Defendant accorded different and unequal treatment to the applications of discharged active duty servicemembers including Mr. Machado, Mr. Espinosa, and class members compared to the applications of National Guard and Reserve servicemembers in violation of equal protection of the law guaranteed by the Massachusetts Declaration of Rights, Articles I, IV, VII, X, and CVI.

108. Defendant's according different and unequal treatment to the applications of Mr. Machado, Mr. Espinosa, and class members and thereby denying them the Welcome Home Bonus deprives them of equal protection of the law.

VII. Violation of Right to Equal Protection of Law Under United States Constitution

109. All the foregoing paragraphs are incorporated herein as if realleged.

110. This claim is brought pursuant to 42 U.S.C. § 1983.

111. Defendant, acting under color of state law, denied Mr. Machado, Mr. Espinosa, and class members the Welcome Home Bonus that they had earned by their honorable service without equal protection of law in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

112. Defendant accorded different and unequal treatment to the applications of discharged active duty servicemembers including Mr. Machado, Mr. Espinosa, and class members compared to the applications of current active duty servicemembers in violation of

equal protection of the law guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

113. Defendant accorded different and unequal treatment to the applications of discharged active duty servicemembers including Mr. Machado, Mr. Espinosa, and class members compared to the applications of National Guard and Reserve servicemembers in violation of equal protection of the law guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

114. Defendant's custom, policy, or practice of according different and unequal treatment to the applications of Mr. Machado, Mr. Espinosa, and class members and thereby denying them the Welcome Home Bonus violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

VIII. Declaratory Judgment c. 231A

115. All of the foregoing paragraphs are incorporated herein as if realleged.

116. This claim is brought pursuant to M.G.L. c. 231 § 1.

117. Mr. Machado and Mr. Espinosa, on behalf of themselves and class members, seek a declaratory judgment that Defendant's denial of the Welcome Home Bonus violated Defendant's duties under federal and state law, the due-process and equal-protection provisions of the Massachusetts Declaration of Rights, and the Due Process and Equal Protection Clauses of the United States Constitution.

PRAYER FOR RELIEF

Wherefore Mr. Machado and Mr. Espinosa, on behalf of themselves and similarly situated individuals, request that this Court:

118. Declare the custom, policy, or practice of the Treasurer of denying the Welcome Home Bonus to former active-duty servicemembers who served multiple terms of enlistment and whose final discharge or release was not under honorable conditions as a violation of M.G.L. c. 30A and the due-process and equal-protection provisions of the Massachusetts Declaration of Rights and the United States Constitution;

119. Certify the proposed class of plaintiffs set forth herein pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure;

120. Order the Treasurer to approve Mr. Machado's and Mr. Espinosa's applications for the Welcome Home Bonus, or in the alternative, set aside the decisions of the Treasurer and remand the matter for consideration of Mr. Machado's and Mr. Espinosa's applications in accordance with constitutional, statutory, and regulatory provisions;

121. Award Plaintiffs costs and attorney's fees pursuant to 42 U.S.C. § 1988; and

122. Award such other relief as the Court may deem just and appropriate.

Dated: June 29, 2017



Dana Montalto, BBO No. 687436

Daniel L. Nagin, BBO No. 601058

Attorneys for Plaintiffs

LEGAL SERVICES CENTER OF HARVARD LAW SCHOOL

122 Boylston Street

Jamaica Plain, Mass. 02130

(617) 522-3003

Exhibit A	Veterans' Bonus Division Policies & Procedures Manual (2016) (Excerpt)
Exhibit B	Veterans' Bonus Division Procedures Related to Veterans' Bonus Appeals (2016)
Exhibit C	Veterans' Bonus Division Denial Letter Template (2008-2016)
Exhibit D	Veterans' Bonus Division Denial Letter Template (Nov. 2, 2016)

Exhibit A

The Commonwealth of Massachusetts
Office of the State Treasurer
Veterans' Bonus Division

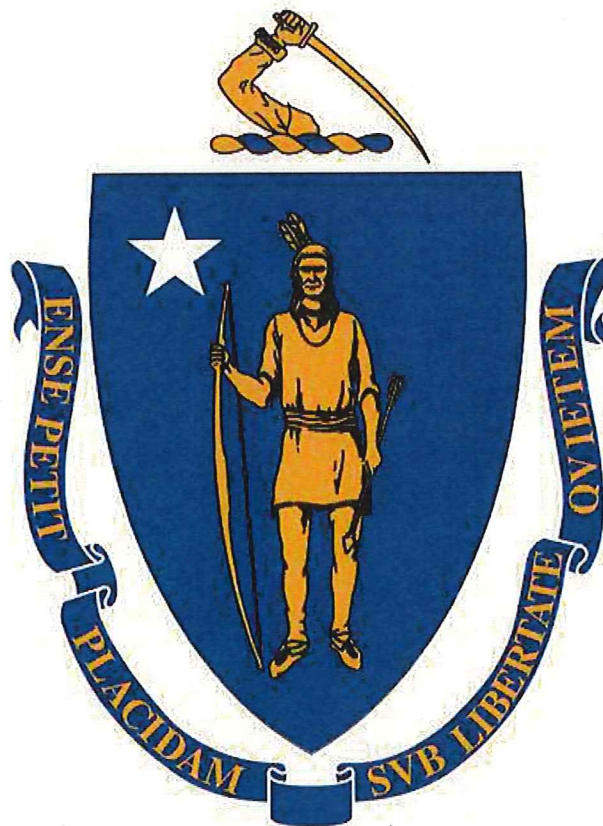
Policies and Procedures

1 Ashburton Place, 12th Floor

Boston, MA 02108-1608

Tel: 617-367-9333

Fax: 617-227-1622



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VETERANS' BONUS DIVISION

Veterans' Bonus is a division of the Community and Veterans' Services Department under the Massachusetts State Treasurer. Currently, the division administers the World War II, Korean War, Vietnam Conflict and Welcome Home Bonus.

Massachusetts takes great pride in its veterans and established this division to give back to those who serve their country bravely and honorably. The Commonwealth of Massachusetts offers one of the most comprehensive Veterans' Bonus programs in the country.

The bonuses are awarded to all qualifying veterans who served overseas or stateside. The bonuses are tax-free and demonstrate, in a small way, our gratitude to our service members.

OUR MISSION

Our mission is to process all applications quickly and accurately while ensuring that all applicants have satisfied all statutory and departmental requirements. We take pride in serving our veterans and will assist each and every veteran with the application process to make sure qualifying individuals receive their respective bonus as soon as possible. We focus on customer service while maintaining the integrity of the program on behalf of the tax payers of the Commonwealth of Massachusetts.

Welcome Home Bonus

Authorized by Chapter 130 of the Acts of 2005 & Chapter 132 of the Acts of 2009

A. Eligibility Requirements

1. Massachusetts Residency Requirements

- First-time applicants – Chapter 130, Acts of 2005: six months domicile in Massachusetts immediately prior to most recent enlistment/commission into the Armed Forces
- Subsequent applicants – Chapter 132, Acts of 2009: six months domicile in Massachusetts immediately prior to most recent tour/deployment

2. Service Criteria

- First-time applicants – at least 6 months of active service either stateside or overseas and/or one or more days in Iraq or Afghanistan on or after September 11, 2001
- Subsequent applicants – an additional tour of at least 6 months of active service overseas on or after September 11, 2001 and/or one or more days of active service in Iraq or Afghanistan
- Active service shall not include active duty for training in the Army National Guard, Air National Guard, or Reserves

3. Benefit Information

First-time Applicants	Subsequent Applicants
Iraq or Afghanistan: \$1000	Iraq or Afghanistan: \$500
6+ months stateside or overseas: \$500	6+ months overseas: \$250
(may be eligible for both first-time bonuses)	(may be eligible for each subsequent

Discharged Applicants for Welcome Home Bonus

Discharged applicants are defined as: any serviceman or woman who has been issued a DD214. This definition includes actively drilling Guardsmen and Reservists.

A. Required Documents

1. Completed and signed application page
2. Proof of residency (Certificate of Residency, W-2, Excise Tax Statement)
3. DD214 Member 4 showing honorable discharge

B. Reviewing a DD214

1. Ensure that the information is accurate e.g. (name, social, date of birth)
2. Check accuracy of the service information
 - A) Dates should match those described on application page
 - B) Character of service must be honorable
3. Highlight the dates of service and character of service.
4. Ensure the copy is a Member 4, not a Member 1
5. Box 13 is the region on a DD214 that will list medals and/or awards such as, but not limited to, Iraq and/or Afghanistan Campaign Medals, Purple Hearts, and Combat Action Ribbons.
6. Box 18 (Remarks) is the location on a DD214 where the service dates and locations will be listed. If the information you need to process the applicant is not listed in this area, contact the applicant and request additional documentation displaying the required information.

Sample DD214 for the Welcome Home Bonus

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES THIS IS AN IMPORTANT RECORD. SAFEGUARD IT. ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

This Report Contains Information Subject to the Privacy Act of 1974, As Amended.

1. NAME (Last, First, Middle)		2. DEPARTMENT, COMPONENT AND BRANCH USMC-11		3. SOCIAL SECURITY NUMBER																																									
4a. GRADE, RATE OR RANK E-3	b. PAY GRADE E-3	5. DATE OF BIRTH (YYYYMMDD)	6. RESERVE OBLIGATION TERMINATION DATE (YYYYMMDD) 20151023																																										
7a. PLACE OF ENTRY INTO ACTIVE DUTY		b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known)																																											
8a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND		b. STATION WHERE SEPARATED																																											
9. COMMAND TO WHICH TRANSFERRED Commander, Marine Forces Reserve, 2000 Opelousas Street, New Orleans, LA 70146 PLIC 88901		10. SGLI COVERAGE		AMOUNT: \$ 400,000																																									
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) 3112 Distribution Management Specialist 3 years 6 months		12. RECORD OF SERVICE																																											
<p>Duration of service</p> <p>Campaign medals and awards</p> <p>13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) Marine Corps Good Conduct Medal, Afghanistan Campaign Medal (w/2 Bronze Service Stars), Sea Service Deployment Ribbon (2d Awd), Global War on Terrorism Service Medal, National Defense Service Medal, NATO Medal-ISAF Afghanistan, Letter of Appreciation Rifle Qualification Badge (Sharpshooter).</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>YEAR(S)</th> <th>MONTH(S)</th> <th>DAY(S)</th> </tr> </thead> <tbody> <tr> <td>a. DATE ENTERED AD THIS PERIOD</td> <td>2008</td> <td>07</td> <td>28</td> </tr> <tr> <td>b. SEPARATION DATE THIS PERIOD</td> <td>2012</td> <td>07</td> <td>27</td> </tr> <tr> <td>c. NET ACTIVE SERVICE THIS PERIOD</td> <td>04</td> <td>00</td> <td>00</td> </tr> <tr> <td>d. TOTAL PRIOR ACTIVE SERVICE</td> <td>00</td> <td>00</td> <td>00</td> </tr> <tr> <td>e. TOTAL PRIOR INACTIVE SERVICE</td> <td>00</td> <td>00</td> <td>00</td> </tr> <tr> <td>f. FOREIGN SERVICE</td> <td>01</td> <td>11</td> <td>19</td> </tr> <tr> <td>g. SEA SERVICE</td> <td>00</td> <td>00</td> <td>00</td> </tr> <tr> <td>h. INITIAL ENTRY TRAINING</td> <td>0</td> <td>04</td> <td>19</td> </tr> <tr> <td>i. EFFECTIVE DATE OF PAY GRADE</td> <td>2012</td> <td>04</td> <td>19</td> </tr> </tbody> </table>					YEAR(S)	MONTH(S)	DAY(S)	a. DATE ENTERED AD THIS PERIOD	2008	07	28	b. SEPARATION DATE THIS PERIOD	2012	07	27	c. NET ACTIVE SERVICE THIS PERIOD	04	00	00	d. TOTAL PRIOR ACTIVE SERVICE	00	00	00	e. TOTAL PRIOR INACTIVE SERVICE	00	00	00	f. FOREIGN SERVICE	01	11	19	g. SEA SERVICE	00	00	00	h. INITIAL ENTRY TRAINING	0	04	19	i. EFFECTIVE DATE OF PAY GRADE	2012	04	19
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h. INITIAL ENTRY TRAINING	0	04	19																																										
i. EFFECTIVE DATE OF PAY GRADE	2012	04	19																																										
14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed) Basic Distribution Management Specialist crs (TNA) 2009, Marine Combat Training (M92) 2008, Green Belt crs (MMD) 2011, Gray Belt crs (MMC) 2010, Tan Belt crs (MMB) 2008.																																													
15a. COMMISSIONED THROUGH SERVICE ACADEMY																																													
b. COMMISSIONED THROUGH ROTC SCHOLARSHIP (10 USC Sec. 2107b)																																													
c. ENLISTED UNDER LOAN REPAYMENT PROGRAM (10 USC Chap. 109) (If yes, years of commitment)																																													
16. DAYS ACCRUED LEAVE PAID RLB 0.5 SLB 0.0																																													
17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION																																													
<p>18. DEPLOYED ENTRY PROGRAM (20071024-20080727). Good Conduct Medal period commences 20120419. SNM contributed to the MCIB \$1,200.00. Subject to active duty recall and or annual screening. While a member of the Marine Corps Reserve, you will keep the Commanding General, MOCBOM (Toll free 1-800-255-5082) informed of any change of address, marital status, number of dependents, civilian employment, or physical standards.</p>																																													
19a. MAILING ADDRESS AFTER SEPARATION (Include ZIP Code)		b. NEAREST RELATIVE (Name and address - include ZIP Code)																																											
20. MEMBER REQUESTS COPY 6 BE SENT TO (Specify state/locality)		MA		OFFICE OF VETERANS AFFAIRS																																									
c. MEMBER REQUESTS COPY 3 BE SENT TO THE CENTRAL OFFICE OF THE DEPARTMENT OF VETERANS AFFAIRS (WASHINGTON, DC)		X		YES																																									
21a. MEMBER SIGNATURE		b. DATE (YYYYMMDD) 20120710		22a. OFFICIAL AUTHORIZED TO SIGN (Typed name - grade title signature)																																									
				b. DATE (YYYYMMDD) 20120710																																									
SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)																																													
23. TYPE OF SEPARATION Released from active duty		24. CHARACTER OF SERVICE (Include indicators)																																											
25. SEPARATION AUTHORITY MARCORSEPMAN PAR 1005		26. SEPARATION CODE MBK1		27. ENTRY CODE RE-3C																																									
28. NARRATIVE REASON FOR SEPARATION COMPLETION OF REQUIRED ACTIVE SERVICE		<p>Character of service</p>																																											
29. DATES OF TIME LOST DURING THIS PERIOD (YYYYMMDD) None		30. MEMBER REQUESTS COPY 4 (Indicate)																																											

DD FORM 214, AUG 2009 PREVIOUS EDITION IS OBSOLETE. MEMBER - 4 Adobe Designer 6.0

Active Applicants for the Welcome Home Bonus

Active applicants are defined as any person applying for the Welcome Home Bonus who has not yet received a DD214.

A. Required Documents

1. Completed and signed application page
2. Proof of residency (Certificate of Residency, W-2, Excise Tax Statement)
3. Signed Attestations by both Commanding Officer and Applicant
4. Copy of Military I.D. (front and back)
5. Sufficient evidence displaying dates and locations of service. Examples include: Basic Individual Records (BIR), Enlisted Record Briefs (ERB), Officer Record Briefs (ORB), orders displaying the necessary information (dates/location), citations and ship rosters.

B. Reviewing Supporting Documentation

1. Ensure the documentation supplied is the applicant's.
2. Highlight the information necessary for processing the applicant for his/her bonus: dates of service and location (Iraq/Afghanistan/Kuwait etc.)

Sample Basic Individual Record for Welcome Home Bonus (Marines)

BASIC INDIVIDUAL RECORD

Organization information for this member is not available.
Current as of: Jul 10, 2012

BILLET DESC:



Contract Information

EAS: [REDACTED]
ECC: [REDACTED]
EOS:
RESERVE ECC:
DATE OF ENL/ACCEPT: 2008-04-01
AFADBD:
DATE OF ORIG ENTRY: 2003-11-03
LENGTH CURR ENL: 4 Years
LENGTH CURR EXT: 0 Months
NO EXT CURR ENL:
EFF DTE CURR EXT:
MONTHS LAST ENL EXT:
TIME LOST CURR ENL: 0 Days
TOTAL MONTHS ENL EXT:
SOURCE OF INT ENTRY MIL SER: C
SOURCE OF ENTRY: BBCA

Date service began

PEBD: 2004-02-09

COMPONENT CODE:
RESERVE COMPONENT CODE:
DATE ACCEPTED FIRST COMMISSION:
DOD TRNGRP: TRAINING GRP:
START MANDATORY DRILL:
MANDATORY DRILL EXTENSION: 0
END MANDATORY DRILL:
DATE OF BASIC ELIG:
PROGRAM ENLISTED FOR: CJ LOGISTICS OPTIONS
BONUS PEF: 08
COLLEGE FUND PEF: 0C
DESIG MIL PILOT:
6 YEAR OBL START DATE:
OFFICER CANDIDATE CODE:
OFFICER CANDIDATE EFF DATE:
RETIREMENT STATUS:



GIBILL Information

POST 911 GIBILL ELIG BEGIN DATE:
POST 911 GIBILL TR EDU BENE CODE: 0
POST 911 GIBILL BENEFITS TR DATE:
POST 911 GIBILL TR EDU OBL DATE:

MGIB-SR STATUS :
ACTIVE MGIB STATUS: 5
OVEBP CODE: 3



Service Information

PRES GRADE: E5 DOR: 2007-10-01
SIL GRADE: [REDACTED]
WORKSTATION: 600
PRESENT BIC: [REDACTED]
FAP BIC: [REDACTED]
BILLET DESCRIPTION:
PEN: [REDACTED] RCN: [REDACTED]
DCTB: 2010-07-02
DATE JOINED PRES UNIT: 2010-07-02
DATE JOINED SMCR:
GEO LOC CODE:
GEO LOC DCTB: 0
COMBAT SERV CODE:
U - OPERATION IRAQI FREEDOM
LAST COMBAT TOUR: 2006-03-11
CO DATE:
LAST SEP/DISCH DATE:
REASON - WITH DESCRIPTION: KBK1 COMPLETION OF
REQUIRED ACTIVE SERVICE
PMOS: 2311
BMOS: 2311
SMOS: 0

Date joined present unit

Combat service code

ACDU RUC: 00000
RESERVE RUC:
PROM RESTR STAT CD: 0
1TAD RUC: 00000
2TAD RUC: 00000
ANNIVERSARY DATE:
FAP RUC: 00000
FORMER RUC: 28310
IND LOC CODE:
DEPLOY RETURN DATE: 2011-09-29
DEPLOY STATUS CODE: 2
ROTATION TOUR DATE:
OVERSEAS CONTROL DATE: 2011-09-29
LAST PHYS EXAM: [REDACTED]
PREV HEALTH ASSESSMENT: [REDACTED]
RESERVE UNIT JOIN DATE:

MCC:
MOB MCC:
TERM DATE:
TMCC:
ATMCC:

RESERVE MCC:
FUTURE RUC:

Sample Basic Individual Record for Welcome Home Bonus (Marines)

This page on a Basic Individual Record indicates location of service.

SERVICE SPOUSE DATE:
SPL POWER OF ATTORNEY:

DEPENDENTS:

DOB:

RELATIONSHIP:
HUSBAND

LOCATION:

Operation history

Operation History Information

From Dt	To Dt	Operation	Location	OpType	OpMCC	OpRUC
07 Sep 2005	10 Mar 2006	OIF IV W/HIMEF	IRAQ			
21 Feb 2011	29 Sep 2011	WEST-11		Combat	169	28391

I CERTIFY THAT MY ELIGIBILITY TO BASIC ALLOWANCE FOR HOUSING HAS/HAS NOT CHANGED SINCE MY LAST CERTIFICATION/UPDATE:
SIGNATURE: _____ DATE: _____ DEPN ZIP IF APPLICABLE: _____

RESERVE ONLY:

I CERTIFY THAT I HAVE BEEN INFORMED ABOUT THE MOBILIZATION DELAYS/EXEMPTION PROGRAM AND ASSOCIATED POLICIES. I HAVE FURTHER CERTIFY THAT MY RETIREMENT OR DISABILITY PENSION STATUS HAS NOT CHANGED. IF MY STATUS HAS CHANGED, I HAVE COMPLETED THE NECESSARY FORMS.

BIR CERTIFICATION SIGNATURE REQUIRED FOR BOTH ACTIVE DUTY AND RESERVE MARINES.

INITIAL: _____ MARINE: _____ DATE: _____ AUDITOR: _____ UD
NUM: _____

Commissioned officers have an Officer Record Brief.

ENLISTED RECORD BRIEF

Beginning of service with date

Exhibit B

VETERANS' BONUS DIVISION

**Office of the State Treasurer
One Ashburton Place, Room 1207
Boston, MA 01208**

Procedures Related to Veterans' Bonus Appeals

The following governs the administration of any appeal from a denial of a veteran's bonus application and unless as further amended, sets forth the procedures to be utilized by the Veterans' Bonus Division staff and the designated Board.

- 1) An applicant, or authorized representative, may appeal any action taken by the Veterans' Bonus Division ("Division") by filing a timely written appeal to the Division. The appeal must be signed and mailed to the Division within 60 days of the date of the notice of denial. It may also include any documents or information in support of such appeal.
- 2) After receipt of an appeal, the Division will issue a Notice of Hearing, which shall include the date, time, and place of the hearing. The Notice of Hearing will be issued by U.S. Mail.
- 3) A three member Board consisting of: the Adjutant General or their designee, a Treasury staff member designated by the State Treasurer, and an Assistant Attorney General designated by the Attorney General will conduct the hearing and report their decision, in writing, to the applicant and Division.
- 4) Conduct of Hearings - Except as otherwise provided herein, the Division hearings shall be conducted pursuant to the State Administrative Procedures Act of M.G.L. c. 30A, §§1 - 17 and the Informal Rules of Adjudicatory Practice and Procedure, 801 CMR 1.012.
- 5) Representation - An applicant may appear on his or her own behalf, or may be represented or advised by their own attorney or another duly authorized representative. Attorneys or individuals acting on behalf of the applicant must file a written notice of appearance that includes their name, address, telephone number, e-mail address, and, if available, facsimile transmission number. The filing of any pleading, motion, or other paper by an attorney is deemed to constitute the filing of an appearance unless the paper states otherwise.
- 6) Submission Without a Hearing - Any party may elect to waive a hearing and to submit their case upon written submissions, and shall so notify the Board and the other party prior to the scheduled time for the hearing. Submission of a case without a hearing does not relieve the parties from the necessity of supplying evidence sufficient to prove the facts supporting their allegations or defenses. Consistent with 801 CMR 1.021.01, affidavits and stipulations may be employed to supplement other documentary evidence in the record.

- 7) Post-Hearing Memoranda – The Board has the discretion to request post-hearing memoranda. A party may request the leave to submit post-hearing memoranda and the Board has the discretion to grant or deny that request. If the request is granted, the Board shall allow the opposing party the opportunity either to submit a post-hearing memorandum concurrently or a reply.
- 8) Decision - After reviewing the evidence, the arguments of the parties, and any post-hearing memoranda and briefs submitted by the parties, the Board shall, within a reasonable time after the close of the record, render a decision. A majority vote of the Board shall be necessary and sufficient for any action and/or decision taken by the Board. The applicant or their attorney or representative shall be provided with notice of the Board's decision, and the time and manner of filing an appeal from it. The decision of the Board is final.
- 9) Right of Appeal - Any party aggrieved by a final decision of the Board may appeal pursuant to the provisions of M.G.L. c. 30A, § 14.

Authority: Chapter 440 of the Acts of 1953
Chapter 646 of the Acts of 1968
Chapter 130, §16 of the Acts of 2005

Exhibit C

Dear Veteran:

Thank you for your recent inquiry concerning the Massachusetts veterans bonus. After careful review, we regret to inform you that you are not eligible for a bonus for the following reason(s):

- ☐ **Our records indicate that you were dishonorably discharged, making you ineligible to receive a Veterans Bonus.**
- ☐ **Our records indicate that you have already applied for and received your Veterans Bonus.**
 - ☐ **Check Issued: _____**
 - OR**
 - ☐ **Stamp on DD214**
- ☐ **Your period of enlistment and/or your period of active service does not meet the stated criteria for a Veterans Bonus (see enclosed "veterans bonus payment information").**
- ☐ **You were not domiciled for six consecutive months in Massachusetts immediately prior to your entry into the Armed Forces.**
- ☐ **You do not qualify for veteran status pursuant to the attached statute.**

Please do not hesitate to call us if you require further information.

Veterans Bonus Division
617-367-3900, extension 859

Exhibit D

November 2, 2016

Name
Address
Address

Dear Veteran,

Subject: Veterans' Bonus Appeal

I write on behalf of the Veterans' Bonus Division (the "Division") of the Office of the State Treasurer and Receiver General (the "Treasury"). You were recently contacted by the Division notifying you that you did not meet the criteria to receive a Veteran's Bonus.

This letter is to advise you that if you disagree with the Division's decision, you have certain appeal rights. Specifically, you may appeal the decision to a three-person board that is comprised of a designated member of the Treasury, a designated assistant attorney general, and the adjutant general or his designee. In connection with any appeal, you are entitled to a hearing and any board decision shall be final. You will receive advanced notice of the date, place and time of any hearing. *See, e.g.*, Section 16 of Chapter 130 of the Acts of 2005.

Consequently, if you wish to appeal the Division's decision, please send a written request for an appeal to the Division within 60 (sixty) days from the date of this letter to me at the address below.

In the meantime, if you have any questions concerning the Division's decision or any appeal, please call the Office of the State Treasurer and Receiver General, Veterans' Bonus Division at 617-367-9333 ext. 859.

Sincerely,

Steven A. Croteau
Veterans' Bonus Supervisor
Office of the State Treasurer and Receiver General
One Ashburton Place, Room 1207
Boston, MA 02108
(Tel) 617-367-9333 ext. 539

(Fax) 617-227-1622 ATTN: Veterans' Bonus Division
(Email) veteransbonus@tre.state.ma.us