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**Comptroller General  
of the United States**

Washington, D.C. 20548

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# Decision

**Matter of:** Timothy Piekarski—Waiver Request

**File:** B-261958

**Date:** November 8, 1995

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## DIGEST

A former Navy member received a Selective Reenlistment Bonus (SRB), but lost the job classification for which he was receiving the SRB before the end of his term of enlistment. The unearned portion of his SRB may not be considered for waiver because the SRB payment was proper when made.

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## DECISION

This is in response to an appeal of a Claims Group settlement which denied the waiver request of Mr. Timothy Piekarski, a former member of the United States Navy. His request is denied, and the Claims Group's settlement is affirmed.

On June 29, 1984, Mr. Piekarski reenlisted in a nuclear job classification for which a Selective Reenlistment Bonus (SRB) was payable. He received SRB payments until he lost the job classification on September 20, 1988. Mr. Piekarski received conflicting information regarding his obligation to repay the unearned portion of the SRB for the unserved portion of his enlistment. The Navy calculated that Mr. Piekarski owed \$5,209.04 for the unserved portion, and he repaid \$123.17 before he left the Navy. When he separated from the Navy in June 1990, Mr. Piekarski received \$2,166.42 in final pay. When notified later of the balance of the debt, Mr. Piekarski began to repay it. Because he was a student working part-time, he offered to repay the debt at \$25 per month, and the Defense Finance and Accounting Service, Cleveland Center (DFAS), accepted that arrangement. In accordance with its policy on reduced payments, DFAS reexamined Mr. Piekarski's circumstances and recalculated the amount it expected him to pay. The new monthly payment amount was \$73.62.

In 1991 the Claims Group denied waiver of the government's claim against Mr. Piekarski for recoupment of the unearned portion of his SRB because the SRB payments were correct when made. However, they waived collection of \$2,166.42, the amount of his final pay, because that amount should have been offset against his debt. Charles E. Raiford, Jr., B-254196, Dec. 23, 1993. As a result, his debt was

reduced to \$2,919.45, plus accrued interest and fees. In 1994 Mr. Piekarski appealed the Claims Group's settlement through DFAS on the grounds of hardship, and in June 1995 DFAS forwarded the appeal to this Office.

Under 10 U.S.C. § 2774, the Comptroller General may waive a claim of the United States arising from an erroneous payment of pay and allowances if collection would be against equity and good conscience and not in the best interest of the United States. A debt cannot be considered for waiver unless the payment was erroneous when made, and we have held that a debt arising from the unearned portion of an SRB does not arise from an erroneous payment, since the payment was proper when made. See B-254196, supra.

In the present situation, the Navy was required to recoup the unearned portion of Mr. Piekarski's SRB under the Department of Defense Military Pay and Allowances Manual, paragraph 10934b(2). Because the SRB payments made to Mr. Piekarski were correct when made, we cannot consider them for waiver. Moreover, hardship is not a factor in the consideration of waiver requests. See B-254196, supra.

With regard to the monthly amount DFAS is seeking to collect from Mr. Piekarski, we have been informally advised that if his circumstances have changed since the payment amount of \$73.62 was calculated, he may request recalculation. Furthermore, we have been advised that it is sometimes possible with proper documentation to suspend collection of a debt for the duration of full-time studies. Mr. Piekarski may wish to discuss that possibility with DFAS.

The government's claim against Mr. Piekarski for \$2,919.45 plus accrued interest and fees cannot be considered for waiver. His waiver request is denied, and the Claim's Group's settlement is affirmed.

/s/Seymour Efros  
for Robert P. Murphy  
General Counsel