

## ADMINISTRATIVE DISCHARGE

### Administrative Discharge

The attached case file is legally sufficient to support the recommendation of the Show Cause Authority (SCA) to administratively discharge the Respondent with an honorable service characterization.

#### Factual Background

The Respondent, a 26-year-old probationary Regular officer, received his commission through the Reserve Officers Training Corps (ROTC) and has a total active federal commissioned service date (TAFCSO) of 8 March 2010. The Respondent is assigned as Chief Customer Service of the Force Support Squadron at Base X.

When the Respondent arrived at Base X on 9 March 2010, he reported feeling unhappy, isolated and alone. Within the first two weeks of his arrival, he called the Air Force Clinic (MHC) on 21 December 2010, at which time he was hospitalized for suicidal ideation. Within less than a year, the Respondent had over ten MHC visits with multiple providers and he was placed on their "High Risk" list. In a memorandum for record dated 31 January 2011, the Respondent's supervisor described him as "emotionally unstable" and indicated that he "consistently has mood swings." In a memorandum dated 31 January 2011, the Respondent's commander indicated that his presence had become a detriment to his squadron.

On or about 27 January 2011, Dr. W, a licensed clinical psychologist, conducted a commander directed mental health evaluation (MHE) in accordance with AFI 44-109, *Mental Health and Military Law*. Dr. W diagnosed the Respondent with adjustment disorder with depressed mood, a disorder recognized in the Diagnostic and Statistical Manual of Mental Disorders (DSM) IV. He further noted that the Respondent's "disorder is so severe that his ability to function effectively in the military environment is significantly impaired" and that "his current mental health state makes him unsuited for duty."

#### Case Processing

On 18 February 2011, the SCA served the Respondent with a Notification of Show Cause Action initiated under paragraph 2.3.7.3 (adjustment disorder) of AFI 36-3206, *Administrative Discharge Procedures for Commissioned Officers*.

The Respondent acknowledged receipt on 23 February 2011, and the following day he submitted a written response to the notification memorandum. In that response, he did not dispute that he has a mental disorder; however, he indicated that it results from "living in an isolated and small town." He further stated that the memoranda by his supervisors "do not reflect an accurate assessment of [his] performance."

In a memorandum dated 16 March 2011, the SCA recommended that the Respondent be discharged with an honorable service characterization pursuant to paragraph 2.3.7.3 of AFI 36-3206. The SCA did not comment on recoupment.

### Case Analysis

“The Air Force judges the suitability of officers for continued service on the basis of their conduct and their ability to meet required standards of duty performance and discipline.” AFI 36-3206 Preface. Further, it is Department of Defense policy to administratively separate commissioned officers who do not “[m]eet rigorous and necessary standards of duty, performance, and discipline.” Department of Defense Instruction (DoDI) 1332.30, *Separation of Regular and Reserve Commissioned Officers*, paragraph 4(c)(1). Paragraph 2.3.7 of AFI 36-3206 authorizes the administrative separation of Airmen with mental disorders that are not within the purview of the medical disability process. Pursuant to DoDI 1332.38, paragraph E5.1.3.9.4, adjustment disorders are expressly identified as conditions outside the medical disability process.

Following a commander-directed MHE, Dr. W, a licensed clinical psychologist diagnosed the Respondent with an adjustment disorder with depressed mood. He further determined that the disorder renders the Respondent unsuited for military duty. Accordingly, administrative discharge processing vice medical disability processing is appropriate in this case. Based on a review of the case file, the SCA had before him sufficient evidence to conclude by a preponderance of the evidence that the Respondent should be administratively separated with an honorable service characterization.

### Case Irregularities/Discrepancies

Although required by AFI 36-3206, paragraph 4.19.2.3.3, Dr. W’s initial mental health evaluation did not include a statement as to whether the Respondent has a mental disease or defect that prevents him from understanding the nature of the administrative discharge process. Upon AF/JAA request, on 29 June 2011, Dr. W provided a memorandum indicating that the Respondent is competent to understand the administrative discharge proceedings. On 1 July 2011, this statement was served on the Respondent and his defense counsel. In an undated memorandum the Respondent indicated he would not be providing additional comments in response to Dr. W’s memorandum. As a licensed psychologist has determined that the Respondent is competent to understand the process and the Respondent has had an opportunity to submit matters in response to Dr. W’s memorandum, the initial oversight does not affect the legal sufficiency of this administrative discharge.

Additionally, the Respondent did not submit the standard “Response to the Show Cause Notification Memorandum” found at Attachment 5 of AFI 36-3206. Through the notification memorandum, the Respondent was placed on notice of his right to contact an area defense counsel, to submit matters in response, and to dispute recoupment for educational assistance—the matters addressed in the standard “Response to the Show Cause Notification Memorandum.” Although he did not submit the “Response to the Show Cause Notification Memorandum,” the Respondent acknowledged receipt of notice of these rights. Moreover, he consulted with his area

defense counsel and submitted matters, in which he did not dispute his debt for educational assistance. Based on the foregoing, the omission of the "Response to the Show Cause Notification Memorandum" does not affect the legal sufficiency of this discharge action.

### Recoupment

The Respondent received educational benefits through the ROTC program and tuition assistance after his commissioning. He has an active duty service commitment until 7 March 2014. On 8 May 2008, the Respondent signed an "Air Force Reserve Officer Corps (AFROTC) Contract," acknowledging an obligation to reimburse the United States government for the unearned portion of the tuition assistance should he fail to fulfill his service commitment due to circumstances within his control. The post-commissioning tuition assistance documents state that the officer accepting the benefit agrees to remain on active duty for at least two years after course completion.

37 U.S.C. § 303a(e) states that in the absence of Secretarial excusal, a person who receives a bonus or similar benefit (to include an educational benefit or stipend) conditioned upon the fulfillment of specified service requirements must repay to the United States any unearned portion of the benefit if that member fails to satisfy the service requirements. Paragraph 4.32.2.1 of AFI 36-3206 states that an Airman is subject to recoupment if the Secretary directs involuntary separation for any reason based in Chapters 2 and 3 of the Instruction.

The basis for the Respondent's separation (adjustment disorder) is found in Chapter 2 of AFI 36-3206. Although adjustment disorder is a basis for involuntary discharge, it is not recognized as a medical disability. Instead, the diagnosis simply acknowledges that the Respondent is unsuited for continued military service. The Respondent received the benefit of educational assistance to complete his undergraduate degree and to work toward his master's degree, which he will now be able to use as a civilian. On the other hand, he has not completed his service commitment incurred for that benefit. Accordingly, if the Respondent is separated pursuant to paragraph 2.3.7.3 of AFI 36-3206, recoupment on a pro rata basis is appropriate.

### Conclusions

There appear to be no significant errors or irregularities that might prejudice any of the Respondent's substantive rights. The case file is legally sufficient to support the Respondent's honorable discharge under AFI 36-3206, paragraph 2.3.7.3. Recoupment is appropriate.