



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

HD:hd  
Docket No. 01485-08  
22 September 2008

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 25 Jan 08 w/attachments  
(2) PERS-311 memo dtd 13 Mar 08  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by removing the original fitness report for 1 November 2004 to 3 June 2005, together with a letter transmitting a supplemental report for the same period, so that the supplemental report will be the only report in the record for this period. Copies of the original report, the letter of transmittal and the supplemental report are at Tabs A, B and C respectively.

2. The Board, consisting of Ms. Humberd and Messrs. Boyd and W. Hicks, reviewed Petitioner's allegations of error and injustice on 18 September 2008, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. The supplemental report is substantially more favorable to Petitioner than the original, in both marks and comments. The reporting senior's letter of 25 January 2007 by which he transmitted the supplemental report states, in paragraph 2.b, the following:

Had this officer's OIC [officer in charge] used proper judgment and procedures, [Petitioner] would not have been placed in an untenable position of having to choose between failure to accomplish a major OSD [Office of the Secretary of Defense] -funded project on time; or to instead, take a personal risk to accomplish the mission by making a time-sensitive unauthorized funding commitment. He chose the latter which was later ratified by a contracting officer as justifiable.

d. In correspondence attached as enclosure (2), the Navy Personnel Command office having cognizance over officer fitness reports has commented to the effect that Petitioner's request should be denied, as supplemental fitness reports do not routinely replace original reports.

CONCLUSION:

Upon review and consideration of all the evidence of record, and notwithstanding enclosure (2), and especially in light of the reporting senior's stated basis for submitting the supplemental report, the Board finds an injustice warranting for following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing therefrom the following original fitness report and related material, including the transmittal letter dated 25 January 2007, leaving in the record the supplemental report covering the same period:

Date of Report	Reporting Senior	Period of Report	
		From	To
24Jun05		1Nov04	3Jun05

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or

completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

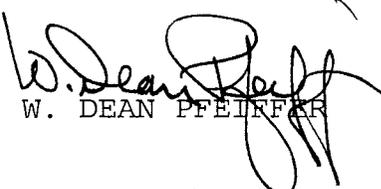
c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

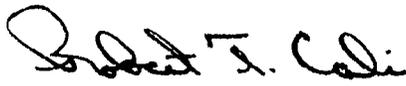
ROBERT D. ZSALMAN  
Recorder

  
JONATHAN S. RUSKIN  
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.

  
W. DEAN PFEIFFER

Reviewed and approved:

  
8-25-08

**Robert T. Call**  
Assistant General Counsel  
(Manpower and Reserve Affairs)