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

BJG
Docket No: 7740-08
13 October 2009

[REDACTED]

Dear Major [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

You requested modifying the fitness report for 1 August to 23 September 2001 by raising the mark, in section K.3 (reviewing officer's "Comparative Assessment"), from the fourth best of eight possible marks to the third best. You also requested modifying the fitness reports for 16 June 2003 to 15 July 2004 and 16 July 2004 to 31 May 2005 by changing the entry in section A, item 1.h ("Bil[let]MOS [Military Occupational Specialty]") from "0402" to "1803." Finally, you requested removing your failures of selection by the Fiscal Year 2007 through 2010 Lieutenant Colonel Selection Boards.

It is noted that the Commandant of the Marine Corps (CMC) has directed the requested modification of the report for 1 August to 23 September 2001, and Headquarters Marine Corps (HQMC) (Code MMSB) has modified the reports for 16 June 2003 to 15 July 2004 and 16 July 2004 to 31 May 2005 as you requested.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 October 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material

submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the reports of the HQMC Performance Evaluation Review Board (PERB), dated 31 July 2008 and 16 July 2009, and the advisory opinion from the HQMC Officer Counseling and Evaluation Section (MMOA-4), dated 12 August 2009, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the advisory opinion from MMOA-4 in concluding your selection by any of the promotion boards by which you failed of selection would have been definitely unlikely, even if your record had reflected the correction directed by CMC and those effected by HQMC. Accordingly, your application for relief beyond that effected by CMC and HQMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,


W. DEAN PFEIFFER
Executive Director

Enclosures