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

JSR
Docket No: 8813-08
6 November 2008

[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.

It is noted that Headquarters Marine Corps (HQMC) has directed removing the uncontested "not observed" fitness report for 31 March to 23 July 2007.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 6 November 2008. 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 report of the HQMC Performance Evaluation Review Board (PERB), dated 11 September 2008, a copy of which is 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 comments contained in the report of the PERB. The Board did not agree with your contention, regarding the contested fitness report for 1 April to 4 November 2006, that because you had no subordinates, you should not have been marked in section F, items 1-4 ("Leading Subordinates," "Developing Subordinates," "Setting the Example" and "Ensuring Well-being of

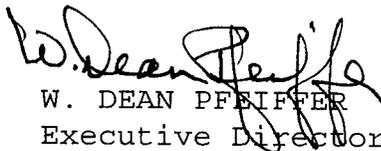
Subordinates," respectively). In this regard, the Board noted paragraph 4009.1.d of Marine Corps Order P1610.7F, which states the following:

Reporting officials must view the term subordinates in a generic sense. Certain billets will not have individuals directly under the MRO [Marine reported on]'s charge; however, this does not mean the MRO does not exhibit these traits in executing day to day responsibilities. All sergeants and above are leaders and have leadership responsibilities regardless of their billets.

In view of the above, your application for relief beyond or other than that effected by 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

Enclosure