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

HD:hd
Docket No. 03476-09
23 July 2009

[REDACTED]

[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 that the decision to remove you from the Fiscal Year 09 Line Lieutenant Commander Promotion List be set aside, that all documentation of the removal be removed from your record, and that you be promoted to lieutenant commander with a date of rank and effective date of 1 June 2009.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 July 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, applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 18 May 2009 with enclosures, a copy of which is attached. The Board also considered your letter dated 25 June 2009 with enclosures.

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 advisory opinion. While the Board recognized the command that awarded your nonjudicial punishment (NJP) recommended you not be denied

promotion as a result of the NJP, it was unable to find the NJP did not warrant your removal from the promotion list. In this regard, the Board noted that fraternization, which the legal memorandum at enclosure (1) to your letter of 25 June 2009 described as "never substantiated," was not the only offense for which you were punished. In view of the above, your application 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