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

JSR
Docket No: 3521-09
11 June 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 completely removing the fitness reports for 1 January to 27 May 1999, 22 February to 31 July 2000 and 1 August to 1 October 2000.

It is noted that the Commandant of the Marine Corps (CMC) has directed removing the report for 1 January to 27 May 1999; modifying the report for 22 February to 31 July 2000 by removing, from section I (reporting senior (RS)'s "Directed and Additional Comments"), "Requires supervision." and removing the entire section K (reviewing officer's (RO's) marks and comments); and modifying the report for 1 August to 1 October 2000 by removing, from section I, "A marked improvement over his last fitness report." and "He has recommitted himself and now seeks responsibility." and removing, from section K.4 (RO's comments), "- Agree with RS comment that MRO [Marine reported on] has recommitted himself to improving his performance. However, in only 60 days since the end of his last reporting period, I cannot say that he has moved up in his peer ranking."

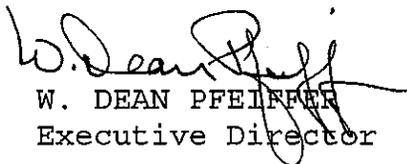
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 June 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB) dated 1 April 2009, 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. Accordingly, your application for relief beyond that effected by CMC 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



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VA 22134-5103

IN REPLY REFER TO:

1610
MMER/PERB
APR 01 2009

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
[REDACTED]

Ref: (a) [REDACTED] DD Form 149 of 14 Jan 09
(b) MCO P1610.7E w/ch 1-9
(c) MCO P1610.7F

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 25 March 2009 to consider [REDACTED] petition contained in reference (a). Removal of the fitness reports for the periods 19990101 to 19990527 (TR), 20000222 to 2000731 (AN), and 20000801 to 20001001 (CH) was requested. References (a) and (b) are the performance evaluation directives governing submission of the reports.

2. The petitioner argues that the report covering the period 19990101 to 19990527 (TR), which is not marked adverse, contains adverse comments from both the reporting senior (RS) and the reviewing officer (RO) and therefore should be expunged from his Official Military Personnel File (OMPF). The Board agreed, and has directed that this fitness report be entirely expunged from the petitioner's record.

3. The petitioner argues that the reports covering the periods 20000222 to 2000731 (AN) and 20000801 to 20001001 (CH) contain multiple adverse comments. He argues that these comments violate the spirit of the performance evaluation system, and taint the entire report warranting the removal of the entire report in each case. The Board concurs with the petitioner's claim that both reports contain inappropriate and adverse comments. Therefore, the Board has directed the removal of verbiage from both reports. However, the Board does not agree with the petitioner that these comments taint the entire report. The Board found that once corrected, by removing inappropriate language, the remainder of these reports appear to be an accurate depiction of the petitioner's performance.

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
[REDACTED]

a. The Board has directed the following modification to the report covering the period 20000222 to 2000731 (AN): Remove the section I verbiage - "Requires supervision." Also remove the entire section K including sect A Item 11.

b. The Board has directed the following modification of the report covering the period 20000801 to 20001001 (CH): Remove the section I verbiage - "A marked improvement over his last fitness report." and "He has recommitted himself and now seeks responsibility." Also remove the section K4 verbiage - "Agree with RS comment that MRO has recommitted himself to improving his performance. However, in only 60 days since the end of his last reporting period, I cannot say that he has moved up in his peer ranking."

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report covering the periods 19990101 to 19990527 (TR), 20000222 to 2000731 (AN), and 20000801 to 20001001 (CH), should remain a part of [REDACTED] official military record.

5. The case is forwarded for final action.



FRANCES S. POLETO
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps