



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

BJG
Docket No: 5145-09
11 December 2009

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

Subj: MA [REDACTED] USMC [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 15 Jan 08 w/attachments
(2) HQMC MMR/PERB dtd 8 Apr 08
(3) HQMC MMOA-4 dtd 6 May 09
(4) Subj's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, that her naval record be corrected by removing the fitness report for 9 July 2002 to 27 January 2003, a copy of which is at Tab A. As indicated in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board has directed removing the contested fitness report. She further requested removing her failure of selection by the Fiscal Year (FY) 2008 Major Selection Board and adjusting the date of rank and effective date of her promotion to major to reflect selection by the FY 2008 Major Selection Board, rather than the FY 2009 Major Selection Board. She was promoted to major with a date of rank and effective date of 1 May 2008.

2. The Board, consisting of Messrs. Garst, Leeman and Mann, reviewed allegations of error and injustice on 10 December 2009, and pursuant to its regulations, determined that relief should be granted. 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. Petitioner exhausted all administrative remedies which were available under existing law and regulations within the Department of the Navy.

b. In enclosure (3), the HQMC Officer Counseling and Evaluation Section, Personnel Management Division has commented to the effect that Petitioner's request to remove her failure of selection to major and backdate her promotion to reflect an FY 2008 selection has merit and warrants favorable action. That office specifically recommended adjusting her date of rank and effective date to 1 October 2007.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (3), the Board finds the existence of an injustice warranting the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by adjusting her major date of rank and effective date from 1 May 2008 to 1 October 2007; and that her lineal precedence be adjusted accordingly.

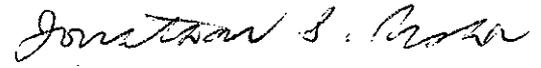
b. That her record be corrected further to remove her failure of selection by the FY 2008 Major Selection Board.

c. 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.

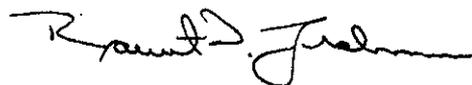
d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


For W. DEAN PFEIFFER
Executive Director