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

BJG
Docket No: 5157-09
24 December 2009

[REDACTED]

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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 report for 29 April to 9 October 2002.

It is noted that the Commandant of the Marine Corps (CMC) has directed modifying the contested report by removing, from the section D.2 ("Proficiency") justification for the adverse mark of "A," the following: "Administratively counseled via a non-punitive letter of caution after the lack of supervision and failure to implement security measures contributed to the misappropriation of a motor vehicle from the Storage/Impound Lot."

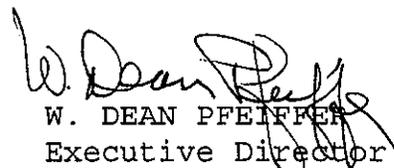
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 December 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 7 May 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. The supporting statement dated 2 April 2008 from Colonel C. R. H---, United States Marine Corps (Retired), did not persuade the Board of a personality conflict between you and the reporting senior. Further, the Board noted it is your obligation as a subordinate to get along with your superior. In view of the above, 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