



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

*[Handwritten signature]*

BJG  
Docket No: 9555-09  
26 February 2010

[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 removing the fitness reports for 1 to 24 October 2002 and 25 November 2002 to 29 May 2003 and your failures of selection by the Fiscal Year (FY) 2003 and 2006 through 2010 Reserve Lieutenant Colonel Selection Boards (you missed consideration by the FY 2005 promotion board). You also impliedly requested restoring you to the FY 2004 Reserve Lieutenant Colonel Promotion List and removing documentation of your removal from the promotion list and consideration for administrative separation.

It is noted that the Commandant of the Marine Corps (CMC) has directed removing the contested fitness report for 25 November 2002 to 29 May 2003.

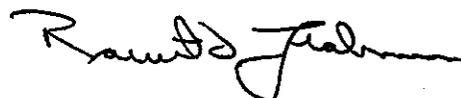
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 February 2010. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 (HQMC) Performance Evaluation Review Board (PERB), dated 1 September 2009, and the advisory opinion from the HQMC Career Management Team, dated 24 September 2009, copies of which are attached. The Board also considered your rebuttal letter dated 18 December 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 report of the PERB in finding the remaining contested fitness report should stand. The Board further found all your other requests should be denied. In this regard, the Board found that the remaining contested fitness report, which is adverse, would have supported your removal from the promotion list and consideration for administrative separation, and it would have made your selection by any of the FY 2006 through 2010 promotion boards definitely unlikely in any event. Finally, the Board observed that neither of the contested fitness reports was in your record when you failed of selection by the FY 2003 Reserve Lieutenant Colonel Selection Board, convened on 12 March 2002 (the earlier of the reports was not signed by the reporting senior until 6 January 2003). 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,



ROBERT D. ZSALMAN  
Acting Executive Director

Enclosures