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

JSR
Docket No: 9583-09
19 November 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 modifying the fitness report for 8 August 2005 to 31 May 2006 by removing the entire section K (reviewing officer's (RO's) marks and comments). You also requested removing your failure of selection by the Fiscal Year (FY) 2010 Lieutenant Colonel Selection Board.

It is noted that the Commandant of the Marine Corps (CMC) has directed modifying the contested section K by removing, from section K.4 (RO's comments), "Has demonstrated growth potential."

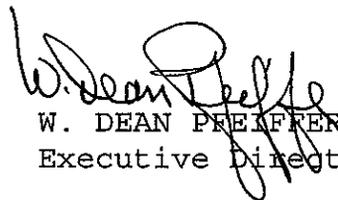
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 November 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 (HQMC) Performance Evaluation Review Board (PERB) dated 8 September 2009, the advisory opinion from HQMC dated 28 August 2009 and the e-mail

from the HQMC Performance Evaluation Review Branch (MMER) dated 14 September 2009, copies of which are 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 Board substantially concurred with the advisory opinion in concluding your selection by the FY 2010 Lieutenant Colonel Selection Board would have been definitely unlikely, even if your record had reflected the corrective action effected by CMC. In view of the above, your application for further relief 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