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DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

BJG
Docket No: 5926-12
24 September 2012

[REDACTED]

Dear [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 setting aside your nonjudicial punishment of 15 June 2006 and removing the fitness reports for 1 January to 1 March 2006 and 1 to 16 June 2006.

It is noted that the Commandant of the Marine Corps (CMC) has directed modifying the contested report for 1 January to 1 March 2006 by marking section A, item 6.c ("Marine Subject Of: Disciplinary Action") and removing, from Addendum Page 1 (continuation of section I, reporting senior's "Directed and Additional Comments"), all material from "Jun 2005" through "MOI [Marine Officer Instructor]." and further directed completely removing the report for 1 to 16 June 2006.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 September 2012. 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. The Board also considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 5 June 2012, and the advisory opinion

from the HQMC Military Justice Branch, Judge Advocate Division (JAM1), dated 13 April 2012, copies of which are attached. Finally, the Board considered your rebuttal letter dated 29 June 2012.

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 and the advisory opinion from JAM1. Accordingly, your application for relief beyond or other than 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 PFENNER
Executive Director

Enclosures