



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

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Docket No. 7142-21
Ref: Signature Date

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Dear █:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 1 March 2022. The names and votes of the members of the panel will be furnished upon request. 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, relevant portions of your naval record and applicable statutes, regulations, and policies. In addition, the Board considered the advisory opinion by the Office of the Chief of Naval Operations memorandum 1520 Ser N133/017 of 27 January 2022, which was previously provided to you for comment.

On 28 January 2009 you signed a Nuclear Propulsion Officer Candidate (NUPOC) Program Service Agreement, volunteering for training under the NUPOC program, designator 1160 (Surface Warfare Officer -Nuclear) or 1170 (Submarine Warfare Officer). On 5 June 2009 you signed an Officer Appointment Acceptance and Oath of Office (NAVPERS 1000/4) in the active Navy as an Ensign with a permanent grade date/present grade date of 5 June 2009 and a designator code of 1160. On 20 August 2014, you transferred from █
█ U.S. Navy nuclear-powered aircraft carrier.

In accordance with OPNAVINST 7220.11F published on 18 May 2017, in order to sustain retention of these highly trained officers and to attract new officers into the nuclear propulsion training program, authority has been granted for the payment of a special nuclear officer bonus and incentive pay (NOBIP). Continuation Bonus (COBO) is a sum of money paid in annual installments to nuclear qualified officers who agree to remain on active duty an additional set period beyond their existing service obligation. In the event an officer who has received COBO fails to maintain eligibility for such special pay, or fails to complete the full period of additional

obligated service, no further annual payments will be made, and recoupment of unearned portions of the incentive will be required on a pro-rata basis.

In accordance with BUPERSINST 1540.41E published on 8 September 2017, personnel who do not maintain their proficiency as a nuclear-trained operator or who, for other valid reasons, are no longer considered suitable for assignment to duty involving supervision, operation, and maintenance of a naval nuclear propulsion plant will have their nuclear Navy enlisted classification (NEC)s or additional qualification designators (AQD)s removed. Those whose NECs or AQDs have been removed, or are pending removal, must not be assigned to duty in connection with supervision, operation, and maintenance of naval nuclear propulsion plants. Nuclear-trained surface warfare officers (SWO(N))s out of a nuclear billet for greater than 5 years (not applicable to SWO(N)s who are CO (Afloat) screened under the legacy commander command career path and all commander command served or serving officers) will have their nuclear AQDs removed on the first day of the month after exceeding 5 years out of a nuclear billet, unless specifically waived by OPNAV (N00N). In the event of performance related issues that may result in non-judicial punishment (NJP or significant civil action, but not detached for cause (DFC), NAVPERSCOM (PERS-42) will make a recommendation to OPNAV (N00N) regarding retention or suspension of the officer's nuclear AQDs. If AQDs were suspended, following completion of the NJP proceeding or civil action, NAVPERSCOM (PERS-42) will review the officer's record for possible restoration or permanent removal of the officer's nuclear AQDs and forward this recommendation to OPNAV (N00N) for final disposition. The effective date of AQD suspension/removal will normally be the date the officer was removed from duties in connection with supervision, operation, and maintenance of naval nuclear propulsion plants.

On 9 December 2017 you arrived to █) for duty.

On 31 December 2018 you were arrested and charged with operating a vehicle under the influence of an intoxicant and excessive speeding by █ Police Department.

On 28 January 2019, Commander, Navy Personnel Command (NPC) (PERS-42) notified you via Commanding Officer, █) that your AQDs were suspended effective 1 January 2019 due to your pending NJP. You were not qualified for the supervision, operation, or maintenance of naval nuclear propulsion plants until further notice. Your eligibility for future NOBIP payments has been suspended. A final determination regarding permanent removal or restoration of your nuclear AQDs will be made upon final adjudication of your pending disciplinary actions.

On 1 September 2019 your nuclear proficiency lapsed.

On 5 May 2021, Commander, Naval Surface Group, █ notified Commander, NPC (PERS-835) via you, Commander, Naval Surface Group, █ and Commander, Naval Surface Group, █ of final civil action in your case. You were placed under arrest for Operating a Vehicle under the Influence of an Intoxicant (OVUII). The sentence imposed: Deferred Acceptance-NOLO Contendere Plea, various fees, Substance Abuse Assessment & Treatment, Substance Abuse Rehabilitation Program-14 hours, refer to Driver's Education, and refer to Adult Client Services. Administrative actions requested were that you not be DFC.

Furthermore, it was recommended that you not be required to show cause for retention in the naval service. They stated your misconduct did not warrant promotion removal.

On 6 May 2021, First Endorsement on 5 May 2021, Commander, Naval Surface Group, █ to Commander, NPC (PERS-835), you acknowledged receipt of your Final Civil Action Report dated 5 May 2021. You elected to submit a statement. You assumed that your few drinks were within the safe zone of less than one drink per hour and only three drinks over your entire night. You have since educated yourself on the effects of alcohol on the body and how easy it is to become inebriated. While you would not choose to repeat the circumstance which allowed you to support █, you have every intention of using that knowledge and experience you've gained to continue supporting the U.S. Navy in your next billet as a warship Department Head.

On 25 May 2021, Second Endorsement on 5 May 2021, Commander, Naval Surface Group, █ to Commander, NPC (PERS-835), Commander, Naval Surface Group, █ notified Commander, NPC (PERS-835) that they continue to recommend that you not be required to show cause for retention in the Naval Service.

On 22 June 2021, Third Endorsement on 5 May 2021, Commander, Naval Surface Group, █ to Commander, NPC (PERS-835), Commander, Naval Surface Force, █ notified Commander, NPC (PERS-835) that they concur you should not be required to show cause for retention; however, they recommended your promotion be delayed.

On 16 August 2021, Commander, NPC (PERS-83) to you via Commander, Naval Surface Group, █ that the Show Cause Authority determined the incident reported in COMNAVSURFGRU █ letter dated 5 May 2021 did not require you to show cause for retention in the Naval Service. You were advised this determination does not in any way preclude or limit the use of the information and opinion contained in COMNAVSURFGRU █ letter dated 5 May 2021 in future administrative or other proceedings. In accordance with MILPERSMAN 1070-170, you may submit a statement in response to adverse material inserted into your record.

On 20 August 2021, Commander, NPC (PERS-42) notified you that your nuclear AQDs were removed due to your alcohol related incident and loss of nuclear proficiency. Effective 1 January 2019, the following actions were taken. Your nuclear AQD were removed. You were no longer qualified for the supervision, operation, or maintenance of naval nuclear propulsion plants in accordance with BUPERSINST 1540.41E. Your eligibility for NOBIP was terminated in accordance with OPNAVINST 7220.11G. A portion of your July 2018 nuclear officer continuation bonus payment \$16,418.40 will be recouped.

On 1 February 2022, Commander, NPC notified you that the Secretary of the Navy removed your name from the FY-20 Active-Duty Navy Lieutenant Line (Unrestricted Line) promotion list. This constituted a failure of selection.

You requested the restoration of your AQDs and that recoupment of your COBO in the amount of \$16,418.40 be waived; the Board, in its review of your entire record and application, carefully

weighed all potentially mitigating factors, to include your assertion that prior to the 20 August 2021 letter you received from NPC (PERS-42) you were not provided notice of intent to remove your AQDs. However, the Board concluded that on 28 January 2019, NPC (PERS-42) notified you that effective 1 January 2019, your AQDs were suspended and you were informed of the suspension of your eligibility for future NOBIP payments. Furthermore, the Board determined that in accordance with BUPERSINST 1540.41E, you exceeded 5 years out of a nuclear billet and no formal AQD waiver was requested due to pending civil action; therefore, your AQDs were appropriately removed, which made you ineligible for future NOBIP payments and subject to recoupment of a portion of the payment you received in July 2018. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or 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,

4/8/2022

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Deputy Director

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