



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

█  
Docket No. 9961-23  
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 insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 13 December 2023. 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 applications, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations, and policies.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your 20 December 2017 Administrative Remarks (page 11) counseling entry, as well as the 16 February 2018 Administrative Remarks 6105 counseling entry and associated rebuttal statement. You also request to remove your fitness report for the reporting period 1 December 2017 to 31 March 2018. The Board considered your contention that the command investigation lacked evidence to support a finding you committed misconduct. You claim that the command had an agenda to remove you from recruiting duty for missing mission during October 2017. You also claim that the contested counseling entries and fitness report are hindering your career progression.

The Board noted that you were issued a page 11 entry notifying you regarding the termination of your special duty assignment (SDA) pay due to your relief for cause (RFC) as a canvassing

recruiter. The Board also noted that you were counseled pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), for attempting to fraudulently enlist an applicant. You acknowledged the counseling entries and, in your statement, you denied the allegations against you. The Board, however, determined that the contested counseling entries were written and issued according to the Marine Corps Individual Records Administration Manual and MARCORSEPMAN. Specifically, the counseling entries provided written notification concerning your deficiencies and afforded you the opportunity to submit a rebuttal. The 6105 provided specific recommendations for corrective action, where to seek assistance; and notified you of the consequences for failure to take corrective action. Moreover, your commanding officer (CO) signed the counseling entries, and he/she determined that your substandard performance/misconduct were matters essential to record, as it was his/her right to do.

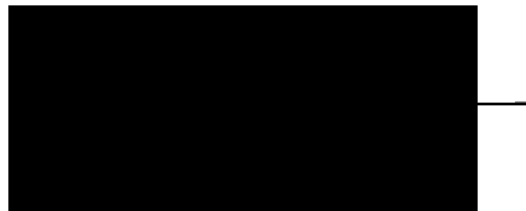
The Board noted the command investigation and Investigating Officer's (IO's) finding that there was sufficient evidence to prove that you attempted to fraudulently enlist an applicant. The Board found no evidence that the investigation was in error or that your command had an agenda to remove you from recruiting duty for missing mission, and you provided none. The Board determined that your CO acted within his/her discretionary authority and relied upon sufficient evidence that included the command investigation when determining that your RFC, termination of your SDA pay, and counseling entries were warranted. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting removal of the counseling entries or any associated adverse materials. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Concerning your request to remove your fitness report, the Board determined that you have not exhausted your administrative remedies. The Performance Evaluation Review Board (PERB) is the initial action agency for fitness report appeals, therefore, you must submit your request to the PERB according to the Marine Corps Performance Evaluation Section Manual.

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,

1/16/2024

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