

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

> Docket No. 689-24 Ref: Signature Date



Dear Petitioner:

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, 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 6 February 2024. 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.

The Board carefully considered your request to remove your 6 November 2023 Administrative Remarks (Page 11) 6105 counseling entry and associated rebuttal statement. The Board considered your contention that the counseling entry does not align with any evidence provided throughout the [command] investigation (CI) and therefore should be removed from your official military personnel file. The Board also considered your contention that no contact had been made by any member of the CI team to you for an interview or written statement. Finally, the Board also considered your claim that you did not commit recruiter fraud of any kind.

However, the Board noted that pursuant to the Marine Corps Separations Manual (MARCORSEPMAN), you were issued a 6105 entry counseling based upon a CI which substantiated your participation in wide-spread recruiter fraud. The Board determined that the contested counseling entry was written and issued according to the MARCORSEPMAN. Specifically, the counseling entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, the consequences for failure to take corrective action, and it afforded you the opportunity to submit a rebuttal, which you did. Moreover, the Commanding General (CG) signed the counseling entry, and he/she determined that your substandard performance/misconduct was a matter essential to record, as it

was his/her right to do. In regards to your assertion that that no one contacted you during the CI for an interview or written statement, the Board determined that the CG relied upon sufficient evidence and acted within his/her discretionary authority when deciding that your counseling entry was warranted.

Moreover, the Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. The Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

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 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,