



**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2016-04878

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. His letter of admonishment (LOA) dated 21 Jun 13 be removed from his records.
2. The substantiated allegations in the Commander Directed Investigation (CDI) Report of Investigation (ROI) be changed to unsubstantiated.
3. Any senior officer unfavorable information file (SOUIF) as a result of the ROI and LOA be removed from his records.

APPLICANT'S CONTENTIONS

His commander issued an LOA based on a flawed and incomplete investigation. The investigating officer (IO) failed to conduct a proper investigation and the ROI was flawed and biased. The IO used the same witness comments to substantiate allegations against two different commanders for allegations that occurred during different time periods, failed to interview dozens of people who had material information and determined he tolerated inappropriate material in the squadron when there was testimony that demonstrated otherwise.

From 10 Dec 10 to 15 Jun 12, he served as the squadron commander (SQ/CC). One of his squadron members, a technical sergeant (E-6) testified to the inspector general (IG) on 6 Nov 12 that she had been sexually harassed and assaulted, had her privacy violated and that commanders allowed the improper consumption of alcohol. Three of the 38 allegations pertained to him and all three were substantiated. After the ROI, he was issued an LOA.

Allegations 17 and 18 are the same and the IO did not differentiate between the two time periods and failed to pin down the witnesses on when the actions occurred. The IO also used the testimony of six officers whose tenure in the squadron spanned one or two other commanders and applied it to him without determining when the facts occurred. The ROI states six officers testified that pornography was used as a bribe or gift at naming ceremonies. The same language is used about another commander. The IO does not determine the dates of when the six officers saw the inappropriate material and failed to properly follow up. The IO also found he had taken appropriate actions while deployed. Based on this, there is every reason to believe he also did the same at home station. The IO speculated against him and the burden of a preponderance of the evidence was not met.

Controlled by: SAF/MRB

Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

[REDACTED]

Substantiating Allegation 37 was arbitrary and capricious. He did not violate any policy or supplement regarding alcohol use. The use of alcohol by pilots in the squadron was in line with the practice used by every fighter squadron in the Air Force. It violated no laws, policies and did not distract from good order and discipline.

The IO's inference he did not uphold standards is incorrect. In the promotion propriety action (PPA) for promotion to colonel, he submitted 47 letters of support with his response. Of the letters, 33 were written by officers in his squadron. Had the IO conducted a proper investigation, she would have discovered he did not condone displays of improper materials, took steps to eradicate them and he did not violate any alcohol policy.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force colonel (O-6).

The applicant provides redacted CDI ROI Concerning Misconduct Within the Wing dated 10 May 13. The allegations in the Wing CDI ROI are contained within the SAF/IG ROI dated Jul 13.

On 21 Jun 13, the applicant received an LOA. An investigation substantiated he failed to provide a professional working environment during his tenure as the SQ/CC. The investigation found he enabled a climate of sexual harassment and tolerated consumption of alcohol by commissioned officers in the workplace during duty hours. On 21 Jun 13, the applicant acknowledged the LOA. On 2 Jul 13, the major command commander (MAJCOM/CC) signed the second endorsement and determined the LOA would stand as issued. The LOA is not contained in the applicant's automated records management system (ARMS).

SAF/IG provides ROI, FRNO 2012-22115, dated Jul 13. The SAF/IG received a complaint from [redacted] through counsel. The complainant made a number of allegations that occurred over the course of her 17 year career spanning six locations, including allegations of assault, harassment and hostile work environment. An IO was appointed and 38 allegations were investigated. The following allegations pertained to the applicant:

Allegation 15: The applicant between 1 May 10 and 4 Oct 10, while at Joint Base Balad, Iraq was derelict in the performance of his duties in that he failed to refrain from engaging in conduct of a sexual nature that created a hostile work environment. **(NOT SUBSTANTIATED)**.

Allegation 16: The applicant between 5 Oct 10 and 31 Dec 10, while at Joint Base Balad, Iraq was derelict in the performance of his duties in that he failed to refrain from engaging in conduct that created a hostile work environment on the basis of sex. **(NOT SUBSTANTIATED)**.

Allegation 17: The applicant between 10 Dec 10 and 4 Oct 11, while at Shaw AFB, SC, was derelict in the performance of his duties as the SQ/CC, in that he failed to provide for an environment within the squadron that was free from sexual harassment. **(SUBSTANTIATED)**. The IO found the preponderance of the evidence supported the applicant condoned displaying sexually offensive materials in the squadron during academic sessions and naming ceremony events. The materials created an objectively hostile work environment.

[REDACTED]

[REDACTED]

Allegation 18: The applicant between 5 Oct 11 and 12 Jun 12, while at Shaw AFB, SC, was derelict in the performance of his duties as the SQ/CC in that he failed to provide for an environment within the squadron that was free from sexual harassment. **(SUBSTANTIATED)**. The preponderance of the evidence supported the applicant condoned displaying sexually offensive materials in the squadron during academic sessions and naming ceremony events. The materials created an objectively hostile work environment.

Allegation 37: The applicant between 10 Dec 10 and 12 Jun 12, while at Shaw AFB, SC, tolerated the drinking of alcohol by commissioned officers in the workplace within the squadron during regular duty hours while other members of the unit were working, which conduct was prejudicial to good order and discipline. **(SUBSTANTIATED)**. The preponderance of the evidence supported officers drank while on duty during academic sessions while enlisted were working. The conduct called the pilots' officership and leadership into question and violated Shaw AFB Supplement to AFI 34-129, *Alcoholic Beverage Program*.

On 8 Dec 16, the AFBCMR closed the applicant's request stating he failed to exhaust administrative remedy by not requesting the LOA issuing authority remove the LOA before submitting his appeal to the AFBCMR. The applicant provides a memorandum from the MAJCOM/CC dated 1 Mar 18, which states that while the AFBCMR directed him to request he remove the LOA, there was no LOA in his records and the LOA is not documented in his officer performance report (OPR) or his officer selection record (OSR). The LOA and the underlying ROI were maintained by SAF/IGQ for his SOUIF. The MAJCOM/CC advised the applicant to request the AFBCMR reconsider his original request given his lack of authority to grant the requested relief.

On 1 Oct 18, the applicant retired in the rank of colonel. He was credited with 24 years and 4 months of active duty service.

On 11 Nov 22, the applicant submitted a new DD Form 149, *Application for Correction of Military Record*. On 15 Dec 22, the applicant's case was re-opened.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory opinions at Exhibits D and E.

APPLICABLE AUTHORITY/GUIDANCE

DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.4, Deciding Cases. The Board normally decides cases on the written evidence contained in the record. It is not an investigative body; therefore, the applicant bears the burden of providing evidence of an error or injustice.

AIR FORCE EVALUATION

AFPC/DPMSSM recommends denial. The LOA mentioned was not able to be located in the applicant's record; therefore, the request for removal cannot be granted.

The complete advisory opinion is at Exhibit D.

AF/JAJI recommends denial. The applicant challenges the IO's investigation, analysis and conclusions and challenges the resulting LOA. After a careful review, AF/JAJI finds no evidence

[REDACTED]

of error or injustice in the CDI or the LOA as alleged. The IO and the MAJCOM/CC drew conclusions that were legally sufficient based on properly ascertained facts. The IO interviewed 205 witnesses and thoroughly documented her investigation in a 204-page report, and no evidence was found that the investigation was legally insufficient. Having established the CDI was not erroneous, the resulting LOA was similarly not erroneous. According to DAFI 36-2907, *Adverse Administrative Actions*, an LOA is an administrative censure for violations of standards which is more severe than a record of individual counseling (RIC) and letter of counseling (LOC). The standard of proof for issuing an LOA is a preponderance of the evidence. Based on the guidance and the underlying facts, the MAJCOM/CC did not exceed their authority. Furthermore, the LOA did not hinge on the applicant's violation of either the UCMJ or the Shaw AFB Supplement. Rather the MAJCOM/CC admonished the applicant for the substantiated conduct of tolerating consumption of alcohol by commissioned officers in the workplace during duty hours. Hence, irrespective of the status of the Shaw AFB Supplement, the LOA remains legally sufficient.

The complete advisory is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 28 Jul 23 for comment (Exhibit F) but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AF/JAJI and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant contends the IO conducted a flawed investigation, the allegations were merely speculations that covered the tenure of multiple commanders and the substantiated allegations failed to meet the burden of a preponderance of the evidence. While the Board is not an investigative body, the Board conducted an independent review of the May 13 WG CDI ROI and the Jul 13 SAF/IG ROI and finds the applicant has failed to sustain his burden of proof to warrant removal of the substantiated allegations and the LOA dated 21 Jun 13 contained within the SAF/IG CDI. In this respect, the Board finds no evidence of any impropriety by the IO or that the IO was biased against the applicant. The Board finds the preponderance of the evidence substantiates the applicant during his tenure as the SQ/CC condoned displaying of sexually offensive materials during academic sessions and naming events, which was wrong and violated Air Force standards. The applicant also permitted officers to drink alcohol during duty hours while enlisted members were working. The Board notes the applicant does not dispute he permitted officers to consume alcohol during duty hours but that this was the norm in fighter squadrons across the Air Force. However, the Board finds this argument insufficient to conclude the applicant's conduct did not call into question the leadership and officership of the squadron's pilots as indicated in the ROI. Therefore, the Board recommends against correcting the applicant's records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

[REDACTED]

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2016-04878 in Executive Session on 12 Sep 23:

[REDACTED], Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Forms 149, w/atchs, dated 9 Nov 16 and 11 Nov 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: SAF/IG ROI (FRNO 2012-22115), dated Jul 13 (WITHDRAWN)
- Exhibit D: Advisory Opinion, AFPC/DPMSSM, dated 10 Feb 23.
- Exhibit E: Advisory Opinion, AF/JAJI, dated 28 Jul 23.
- Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 28 Jul 23.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

6/8/2025

[REDACTED]

Board Operations Manager, AFBCMR
[REDACTED]

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