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

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### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01157

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COUNSEL: Work-Product

HEARING REQUESTED Work-Product

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### APPLICANT'S REQUEST

1. He be promoted to colonel (O-6).
2. Award of the Defense Meritorious Service Medal.
3. Removal of referral Officer Performance Reports (OPRs).
4. Removal of derogatory information.
5. Removal of Letters of Reprimand (LOR).
6. Removal of Unfavorable Information File (UIF).
7. Status of missing records. (**Not within the Boards scope**)

### APPLICANT'S CONTENTIONS

He enlisted for 9 years, 10 months, and 29 days, achieving the rank of staff sergeant (E-5) in under four years. During his enlistment, he earned a bachelor's degree through night school. He separated from the Air Force to pursue a master's degree, subsequently returning as a second lieutenant (O-1). After 32 years, 9 months, and 21 days of active duty as an officer, he retired as a lieutenant colonel (O-5). Early in his officer career, he was identified as a high-potential performer and given prestigious assignments. As a second lieutenant (O-1), he was placed on the "Fast Track" program. As a first lieutenant (O-2), he received orders to the Office of the Secretary of the Air Force, Office of Special Projects (SAFSP), a year and a half ahead of schedule, with early reporting authorized. He is certified Level III in Program Management under the Defense Acquisition Workforce Improvement Act Acquisition Professional Development Program. He publicly opposed another sole-source contract with [company name], noting that while [company name] had been the prime contractor for seven to nine years, any qualified company could have fulfilled the contract requirements. He blew the whistle on a \$250 million National Security Agency (NSA) contract. This action resulted in his removal from the Joint Staff and subsequent reprisal.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

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The applicant is a retired Air Force lieutenant colonel (O-5).

On 1 August 1996, the applicant's rater notified him of his intent to render him a referral OPR for the reporting period of 10 June 1995 – 31 December 1995. Specifically, he rated his leadership skills, judgement and decisions as being below an acceptable standard. The applicant was given 10 calendar days from the date he received the notification to respond.

On 17 September 1996, according to a memorandum from the applicant's attorney, an extension to respond to the referral memorandum dated 1 August 1996 was requested. The applicant was granted a 14-day extension on 26 September 1996.

On 14 October 1996, the applicant responded to the referral OPR intention. In his response, the applicant contended the referral OPR erroneously represents his contributions to the Joint Staff and mistakenly evaluates his conduct during the reporting period.

The applicant received a referral OPR for the reporting period of 10 June 1995 – 31 December 1995.

On 31 Mar 1999, the applicant's rater notified him of his intent to render him a referral OPR for the reporting period of 1 January 1996 – 28 October 1998. Specifically for receiving an LOR for improper use of a government computer and it was filed in his UIF. The applicant responded on 23 April 1999.

The applicant received a referral OPR for the reporting period of 1 January 1996 – 28 October 1998.

On 14 January 2025, AFBCMR staff requested any/all Inspector General (IG) reports from SAF/IG for complaints the applicant may have filed against his organization.

On 7 February 2025, SAF/IG responded stating they had conducted a search and did not identify any records associated with the applicant. They also noted that based on the date of the alleged complaint, the records would have been destroyed since the IG record disposition schedule is 10 years.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisories at Exhibit C.

## **AIR FORCE EVALUATION**

**AFPC/DPMSSM (Special Programs)** recommends denying the applicant's request to remove the LOR dated 18 August 1997 from his Air Force records. After reviewing the applicant's military file from the National Personnel Records Center (NPRC), it was documented on the 1996-1997 OPR an LOR was administered for improper use of a government computer, and that it was filed in a UIF. The applicant's LOR is not included in the NPRC files for the Special Programs section to determine if it was administered in accordance with DAFI 36-2907, *Adverse Administrative Actions*.

Based on the documentation provided by the applicant and analysis of the facts, there is insufficient evidence of an error or injustice as it pertains to the administration of the LOR and UIF. The Special Programs section is unable to review the adverse administrative information in the

applicant's Master Personnel Record Group/Officer Selection Record because those records are not visible, and the LOR is not a matter of record in the NPRC files.

**AFPC/DPMSPP (Officer Promotion Management)** recommends denying the applicant's request for promotion to colonel under Special Selection Board consideration. Under 10 U. S. C. § 628, Special Selection Boards, the Secretary of the military department concerned shall convene a special selection board if persons considered by promotion boards involved material error of fact, material administrative error or missing material information. The applicant's request for award of a Defense Meritorious Service Medal, removal of two referral OPRs (c/o dates 31 December 1995 & 28 October 1998) and removal of derogatory information (LOR dated 18 August 1997) have not been approved. Consequently, no changes have been made to the applicant's record to warrant Special Selection Board consideration for promotion to colonel.

Based on the documentation provided by the applicant and analysis of the facts, the applicant's request for promotion to colonel is premature as no changes to his record have been approved to support a claim of erroneous/missing material information or administrative error on the CY99A Colonel Line of the Air Force Central Selection Board. As there are no approved changes to the applicant's records, he does not meet the criteria to meet a Special Selection Board for promotion consideration to colonel.

**AFPC/DPMS (Sustainment and Transition Operations)** recommends denying the applicant's request to have his OPRs rendered for the period of 10 June 1995 thru 31 December 1995 and 1 January 1996 thru 28 October 1998 be voided from his permanent record based on the lack of corroborating evidence and the presumed legitimacy of the evaluators' observations on the referral evaluations. The application was not submitted in a timely manner and the applicant did not file an appeal through the Evaluation Report Appeals Board within 3 years under the provisions of AFI 36-2406, *Officer and Enlisted Evaluation Systems*. Additionally, IAW AFI 36-2406, paragraph A2.4., *Time Limit Waivers*, the applicant can request a waiver of the 3-year time limit by citing unusual circumstances that prevented filing the appeal in a timely manner; however, ratees are responsible for reviewing their records at least annually for accuracy and the board should consider the due diligence of the applicant to apply for correction. Applications that do not include a waiver will be returned without action. Grounds for a waiver do not include failing to understand the appeals process; being discouraged from appealing by superiors, peers, or counselors; failing to understand how serious an impact an evaluation could have on your career in later years; or not reviewing your records during the intervening years. The Air Force asserts that the applicant's unreasonable delay regarding a matter dating back 26 years has greatly complicated its ability to determine the factual merits of the applicant's position. Therefore, they see no valid reason to waive the statute of limitations.

Further, after reviewing the applicant's supporting documentation, the request does not adhere to the requirements in AFI 36-2406, paragraph A2.2, as the applicant did not provide clear evidence that the contested evaluations are unjust or wrong. The officer received a referral evaluation closing out on 31 Dec 1995 for poor judgment in the performance of his duties, and he received a second referral report closing out on 28 October 1998 for improper use of a government computer that was documented in an LOR and filed in a UIF. The applicant states his referral evaluations are unjust and were issued in retaliation due to his Whistleblower allegations on an NSA contract. Unsubstantiated conjecture about the motives of evaluators, or how or why an evaluation turned out as it did are insufficient. Statements or Memorandum for Records written by the applicant on the events which he believes led to the contested evaluations are not considered credible evidence unless supported by another credible official. It is the applicant's responsibility to document their appeal with information from sources who are credible, relevant, and factual.

In summary, the applicant has not provided substantiating documentation or evidence to prove the final 31 December 1995 and 28 October 1998 OPRs were rendered unfairly or unjustly. Evaluations that have become a matter of record are presumed to be accurate and objective. Once a report is accepted for file, only strong evidence to the contrary warrants correction or removal from an individual's record. The burden of proof is on the applicant to prove an error or injustice. Without the benefit of statements from any rating official, or other credible, relevant source they conclude that the evaluations are accurate as written and represented the rating chain's best judgment at the time it was rendered. The referral evaluations were accomplished in accordance with all applicable Air Force policies and procedures.

The complete advisory opinions are at Exhibit C.

### **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 1 April 2025 for comment (Exhibit D), and the applicant replied on 14 May 2025. In his response, the applicant provided previously submitted supporting documentation. He contends he was wrongfully removed from the Joint Chiefs of Staff, claiming violations of DoD 5200.2R and DCID 1/4 regarding unfavorable administrative actions and appeal timelines. He states he was not given a Statement of Reason or adequate time to respond. He also claims the OSI and DIS found no wrongdoing on his part and that his assignment to the 11th Wing was a mistake. He contests a denial of leave and associated expenses. Further, he says he was offered an Article 15 for a travel voucher issue, which he refused, demanding a court martial. He believes his suspension was motivated by his potential exposure of "black" funded programs and to distract from travel voucher fraud by senior officers. He challenges accusations regarding excessive travel, extensions, and leave, arguing that his orders, signed by his accuser, authorized his travel. He questions why the member who directed his travel, was never interviewed. He also raises concerns about the handling of his alleged disappearances near sensitive borders, noting a failure to report these incidents promptly and initiate a counter-intelligence investigation. Finally, he points to a statement from the Acting Secretary of the Air Force that exonerated him on a dereliction of duty charge related to leave and TDYs, deeming the remaining allegation insufficient to warrant removal from the promotion list. He reiterates that his suspension lacked proper protections under DoD and DCID regulations.

The applicant's complete response is at Exhibit E.

### **FINDINGS AND CONCLUSION**

1. The application was not timely filed. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*.
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 AFPC/DPMSSM, AFPC/DPMSP and AFPC/DPMS and finds a preponderance of the evidence does not substantiate the applicant's contentions. While the applicant provided evidence that the Acting Secretary of the Air Force exonerated him on a dereliction of duty charge related to Leave and TDYs, it is insufficient to justify granting his multiple requests. Furthermore, while the LOR and

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UIF are not available in his record for review, his 28 October 1998 evaluation indicates that the LOR/UIF were issued for improper use of a government computer and appear to be completely unrelated to the TDY and Leave issue. The applicant further contends that the adverse actions taken against him were for some form of reprisal; however, there is no evidence provided by the applicant other than his own conjecture that this was the case. Moreover, under the presumption of regularity, it is assumed that responsible officials carried out these tasks in accordance with the provisions of the prescribing directives and given the passage of time, over 25 years, the Board finds insufficient corroborating evidence to show that an error or injustice occurred. Therefore, the Board recommends against correcting the applicant's records.

## 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-2024-01157 in Executive Session on 18 June 2025:

Work-Product Panel Chair  
Work-Product, Panel Member  
Work-Product, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 31 January 2024.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSSM dated 11 December 2024, AFPC/DPMSPP dated 31 December 2024, and AFPC/DPMS dated 31 March 2025.
- Exhibit D: Notification of Advisories, SAF/MRBC to Applicant, dated 1 April 2025.
- Exhibit E: Applicant's Response, dated 14 May 2025.

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.

7/8/2025

X

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Board Operations Manager, AFBCMR  
Signed by: USAF

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