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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2023-00396

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

She be allowed to complete the Fixed Wing Qualification (FWQ) Training Course.

APPLICANT'S CONTENTIONS

She was eliminated from the course in 2013 and has not been allowed to pursue a flying career since that time. There were six students eliminated from the class, which exceeds the allowable 10 percent elimination per class.

She is currently a civilian commercial helicopter pilot. She had a very good flying record with medical evacuations (MEDEVAC) and was a command pilot with combat flight experience. She was awarded the medal of valor for heroism and extraordinary courageous acts, which is the second highest award given in the state of Texas. She was also awarded two Air Medals, one with valor during Operation IRAQI FREEDOM.

The disqualification from flying caused her to be nonselected for promotion to the grade of lieutenant colonel (O-5) and was the main source of discussion during her post board counseling. It was presumed she was not interested in returning to flight status. Her commercial pilot's license is current.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a major (O-4) in the Air Force Reserve (AFR).

The applicant's NGB Form 22, *Report of Separation and Record of Service*, reflects the applicant served in the Army National Guard from 15 Dec 03 to 9 Apr 10 and was honorably discharged in the grade of captain (O-3).

While in the Army National Guard, she was awarded the Army Aviator Badge and Aeronautical Designation of Army Aviator, effective 17 Feb 05.

On 21 Sep 11, the AFRC/A3 approved the waiver of the Aeronautical Rating Board (ARB) and Award of the Air Force Pilot Aeronautical Rating for the applicant. According to the waiver, the rating would be contingent upon the applicant's commission/assignment to rated duties. If the applicant was to become disenrolled from training, the rating would be revoked and she would be disqualified from aviation service.

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

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According to ARPC IMT 92, *Appointment Order*, Reserve Order dated 13 Oct 11, the applicant was commissioned in the AFR in the grade of captain (O-3) effective 5 Oct 11 as an interservice transfer from the Army Reserve.

Per Aeronautical Order dated 28 Nov 11, the applicant was in a rated officer position in accordance with AFI 38-204, *Manpower Programming*. The applicant held the aeronautical rating of pilot (helicopter only) effective 16 Jun 11. The applicant separated from previous military service in the Army on 9 Apr 10.

AF Form 938, *Request and Authorization for Active Duty Training/Active Duty Tour*, dated 28 Mar 13, reflects the applicant was placed on active duty orders from 10 Apr 13 to 2 May 14 for completion of the FWQ course.

AETC Form 139, *Record of Commander's Review Action (Undergraduate Pilot) Training*, dated 31 Jul 13 reflects her flying training squadron commander (FTS/CC) informed the applicant of her flying training deficiency and the ramifications, to include ineligibility for future flight training, reclassification and/or retention. The operations group deputy (OG/CD) stated the applicant struggled with basic aircraft control as a result of a slow/encumbered composite cross-check and below average situational awareness throughout her training. He believed she would face significant challenges to complete the syllabus within the prescribed constraints and recommended she be eliminated from the FWQ program. He recommended she be retained in a non-rated career field.

On 27 Aug 13, the fighter training wing commander (FTW/CC) informed the applicant a flying evaluation board (FEB) would be convened as a result of her failure to meet training standards.

On 4 to 5 Dec 13, a FEB convened in accordance with AFI 11-402, *Aviation and Parachutist Service, Aeronautical Ratings and Aviation Badges*. The FEB found the applicant failed to meet training standards and was deficient in task management, situational awareness and basic aircraft control. The FEB found she was not deficient in general knowledge. The FEB recommended the applicant not be reinstated in the FWQ training course.

On 10 Feb 14, the wing staff judge advocate (WG/JA) found the recommendations of the FEB and the record of proceedings legally sufficient and the findings were supported by a preponderance of the evidence. There were no errors or irregularities prejudicial to the substantive rights of the applicant that required a rehearing.

In a memorandum dated 15 Feb 14, the FTW/CC informed the Air Education and Training Command (AETC) that on 4 and 5 Dec 13, a FEB convened in accordance with AFI 11-402 to determine whether the applicant failed to meet training standards in the FWQ course and that she was deficient in task management, situational awareness and basic aircraft control. He concurred with the findings and recommendations of the FEB and recommended she be discontinued from the FWQ training program, she retain her pilot (helicopter only) rating and she be reassigned in the Reserves as a pilot of a rotary wing or RPA or in accordance with the needs of the Air Force.

On 12 Mar 14, the AETC/JA found the FEB package legally sufficient.

On 5 May 14, AFRC/A3 non-concurred with the FEB recommendation that the applicant remain qualified for aviation service. On 21 Sep 11, the applicant was approved for an Aeronautical Rating Board Waiver and awarded the Air Force Pilot Aeronautical Rating contingent upon her completing required training to become a C-5 aircraft pilot. Since the applicant could not complete the required training or return to a mission design series (MDS) because she crossed over from the

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Army, the AFRC/A3 instructed the Air Staff to disqualify her from aviation service and prohibit her to wear the Air Force pilot rating.

Per Aeronautical Order dated 7 May 14 the applicant was permanently disqualified for aviation service effective 27 Aug 13. The applicant was prohibited from wearing the Pilot Aeronautical Badge.

On 9 May 14, AFRC/A3 approved the FEB, in accordance with AFI 11-402, *Aviation and Parachutist Service, Aeronautical Ratings and Aviation Badges*, paragraph 4.4. The applicant was disenrolled from FWQ training for failing to meet training standards. The AFRC/A3 directed the applicant be disqualified from aviation service and be prohibited from wearing the Air Force Pilot Badge.

On 2 Dec 21, the applicant was notified of her eligibility for Reserve retired pay at age 60 (20 year letter).

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

APPLICABLE AUTHORITY/GUIDANCE

Per AFI 11-402, *Aviation and Parachutist Service, Aeronautical Ratings and Aviation Badges*, 13 Dec 10, paragraph 4.6 Final Action on the Board. The respondent's MAJCOM/CC is the final authority for FEBs convened at the MAJCOM level or below. The respondent's MAJCOM will review the FEB report and all recommendations before determining final action.

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) protects the civilian employment of active and reserve military personnel called to active duty. Complaint resolution process: The Department of Labor through the Office of the Assistant Secretary for Veterans Employment and Training, assists persons having claims under USERRA.

AIR FORCE EVALUATION

AF/A3TM recommends denial. Disqualification from aviation service is permanent in accordance with AFMAN 11-402, paragraph 6.3.2. Disqualification from aviation service is permanent when it results from an FEB action, fear of flying, substantiated substance abuse, failure to maintain professional standards or non-flying related action that indicates permanent disqualification.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 19 Jan 24 for comment (Exhibit D). In an undated response, the applicant contends the regulation that prohibits flight training for other branches is discriminatory and should be revised. She requests the Board consider her corrections due to discrimination in violation of USERRA laws.

Her unit and the board members were uneducated in the FEB process. Her unit thought she could be put back in as a helicopter pilot and that was their unanimous decision; however, it was overturned by the final approval authority. Had it been known the FEB would have ended her flying career, she would have been given consideration for reinstatement at the time. She was discriminated against as a female aviator. There are only two percent of female aviators in her wing and this is unacceptable. She was the only person hazed by flight instructors. She was beat

and cursed at during flights. It was not a conducive environment for training. Attrition implies there was a failure on the part of the instructors rather than the student. The fixed wing qualification program at the time had a harassing nature and weed out course mentality.

The applicant's complete response is at Exhibit E.

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/A3TM and finds a preponderance of the evidence does not substantiate the applicant's contentions. In this respect, the Board notes disqualification from aviation service is permanent when it results from an FEB action. While the applicant disagrees with the final decision of the FEB and states she was hazed and discriminated against by flight instructors, the applicant has provided insufficient evidence to corroborate her assertions. The Board also finds insufficient evidence has been presented to conclude the AFRC/A3 determination on 5 May 14 the applicant be permanently disqualified from aviation service was improper, disparate or violated any Air Force rules and regulations. 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.

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-2023-00396 in Executive Session on 29 Nov 23 and 20 Mar 24:

<i>Work-Product</i>	Panel Chair
<i>Work-Product</i>	Panel Member
<i>Work-Product</i>	Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 26 Jan 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AF/A3TM, w/atchs, dated 19 Jan 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 19 Jan 24.
- Exhibit E: Applicant's Response, undated.

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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.

3/22/2024

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Board Operations Manager, AFBCMR
Signed by: USAF