

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-01966

XXXXXXXXXXXXXXXXXX

COUNSEL: XXXXXXXXXXXXXXXX

HEARING REQUESTED: NO

APPLICANT'S REQUEST

1. His retired grade be in the rank of brigadier general (O-7), instead of colonel (O-6).
2. The Secretary of the Air Force's (SECAF) determination on 28 Sep 20 he be retired in the grade of O-6 be removed from his records.

APPLICANT'S CONTENTIONS

Counsel, on behalf of the applicant, contends an investigation found he, a major general (O-8), engaged in inappropriate personal relationships. On 22 May 19, the Air Force Office of Special Investigations (AFOSI) initiated an investigation into allegations he was having a romantic relationship with another service member under his command. The service member admitted to having a consensual sexual relationship with him, which began in Jul 18, more than three years after being promoted to O-8. She also reported multiple people were aware of their relationship. The investigation also uncovered possible relationships he had with other women stretching back to 2008; however, the AFOSI did not interview any of the women and the allegations were based on hearsay and speculation. SAF/IG prepared a report of investigation (ROI) based on the AFOSI investigation and concluded the applicant, while married, wrongfully engaged in sexual intercourse with a female subordinate in his command and that he engaged in inappropriate personal relationships with multiple women, which seriously compromised his standing as an officer. He was notified by SAF/IG on 25 Jul 19, the investigation substantiated two allegations. On 21 Nov 19, he received nonjudicial punishment (NJP), pursuant to Article 15, Uniform Code of Military Justice (UCMJ).

Upon his request for retirement, an officer grade determination (OGD) board was convened due to the substantiated allegations and the NJP. In his response, he acknowledged the struggles in his personal life, timeline for the dissolution of his marriage, family separation and his accomplishments as an O-8. He provided letters of support to include from the Pacific Air Forces Commander (PACAF/CC) who is now the current Chief of Staff of the Air Force (CSAF) and his ex-wife. His major command commander (MAJCOM/CC) recommended he be retired in the lower grade of O-7. On 22 Jul 20, the OGD board convened and recommended he be retired in the lower rank of O-7 and SAF/MRB concurred. However, the SECAF inexplicably decided to downgrade his grade to O-6. The SECAF notified the Secretary of Defense (SECDEF). The SECAF memorandum has not been produced but several emails indicate the OGD board's final recommendation was not considered. A Freedom of Information Act (FOIA) request shows the SECAF selected from several options and without any thought determined he be retired in the grade of O-6. On 22 Oct 20, the Chairman of the Joint Chiefs of Staff (CJCS) legal office asked questions if the OGD was boarded. This further indicates the CJCS was possibly raising objection to his retirement in the grade of O-6.

The SECAF's decision was arbitrary and capricious. It was not supported by substantial evidence; it was inconsistent with applicable laws and regulations and represented a clear error in judgment.

Per 10 U.S.C. § 1370(a)(1), While the SECAF maintains authority to deem an officer to have not served satisfactorily, such a determination must be supported by substantial evidence. There is no substantial evidence of misconduct while he served as an O-7. Per the AFOSI and Inspector General (IG) investigations, the misconduct between him and the civilian women was contrived from third party witness statements. The investigating officer (IO) improperly used the applicant's silence as evidence of guilt. Third party witness recollections from several years prior cannot alone rise to the level of substantial evidence. Further, the OGD board concluded his alleged relationships with the civilians, if true, had minimal impact and did not rise to the level to render his service as an O-7 unsatisfactory.

He requests the Board find the SECAF's decision to deny his retirement in the grade of O-7 materially flawed and unjust. His honorable and lengthy service warrant retirement in the grade of O-7 as a matter of law, equity and fairness. He provides witness statements and letters of support. His ex-wife, a retired Air Force colonel, states while his actions warranted punishment, the SECAF erred in reducing him from O-8 to O-6.

Counsel provides CJCS memorandum to the SECDEF dated 23 Oct 20 and CJCS memorandum to the SECAF dated 16 Jun 23 supporting his retirement in the grade of O-7.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force colonel (O-6), with highest grade held (HGH) on active duty of major general (O-8).

AFOSI Form 158, *AFOSI Investigative Communication*, dated 31 May 19 to SAF/IG reflects an investigation was initiated on 22 May 19 upon receipt of information the applicant was having a sexual relationship with [Redacted #1], a first lieutenant (O-2) in his direct chain of command. AFOSI was provided photographs of the applicant's vehicle at her off base apartment complex. Further, [Redacted #1] had been stratified as #1 of 6 lieutenants. She also confided in others about their relationship and referred to him as her "boyfriend." During the course of the investigation, it was reported the downfall of the applicant's marriage was due to a 10-year long prior extramarital affair. [Redacted #1] stated to AFOSI she and the applicant had sexual intercourse in the distinguished visitor quarters (DVQ) and they always met at her off-base residence. In Oct 18, [Redacted #1] attempted to complete the Sexual Assault Response Coordinator Course (SARC) but did not complete the course. During the course, she discussed her relationship with the applicant in a hypothetical sense. She was referred to mental health while attending training. [Redacted #1] also admitted to sending nude photographs of herself to the applicant and that the applicant sent her inappropriate photographs as well. Throughout the AFOSI interview, [Redacted #1] alternated between using the applicant's first name, rank, or call sign. Following the interview, her first sergeant picked her up and the Special Agent recommended she see mental health or a chaplain.

AF Form 78, *Air Force General Officer Promotion Recommendation*, dated 8 Aug 19, for the period 1 Jul 18 to 30 Jun 19, reflects the MAJCOM/CC removed the applicant from duty as the Center Commander for cause due to an unprofessional relationship.

SAF/IG provides Report of Investigation (ROI) dated Sep 19. On 31 May 19, the IG approved SAF/IGS to investigate allegations of misconduct by the applicant. Pursuant to AFI 90-301, *Inspector General Complaints Resolution*, paragraph 1.12.3.1, the SAF/IGS Director is responsible for performing special inquiries on all investigations of senior officials, to include an officer in the rank of brigadier general (O-7) and above. The IO interviewed 24 witnesses. The

applicant declined to be interviewed. The allegation of abuse of authority did not result in a formal allegation. The SAF/IG ROI includes the following allegations:

Allegation 1: Between 27 Jul 18 and 2 Dec 18, the applicant, a married man, wrongfully had sexual intercourse with a female subordinate in his command, a woman not his wife, in violation of Article 134, Adultery, UCMJ **(SUBSTANTIATED)**. The preponderance of the evidence supports the applicant engaged in sexual intercourse with his female subordinate during a period in which he was married to another woman. The applicant permitted [Redacted #1] to co-opt his authority to create an obvious and measurably divisive effect on the center's discipline. The IO concluded the applicant had sexual intercourse with [Redacted #1] on multiple occasions between 27 Jul 18 and May 19, while he was still married. The disparity in rank, age, position, and military experience between the applicant and his subordinate during their conduct diminished his moral authority to lead. The relationship continued until they were directed by superiors to have no further contact. The IO concluded the applicant's conduct towards [Redacted #1] was directly prejudicial to good order and discipline. Further, his adulterous conduct with a subordinate was detrimental to his authority within the military community. [Redacted #1] communicated details of her relationship with the applicant to the center staff, family members and a friend in the local area before providing an extensive account to AFOSI. The applicant acknowledged he had sex with [Redacted #1] and admitted to subordinates he made a mistake following the news of his removal from command.

Allegation 2: Between 1 May 08 and 2 Jun 19, the applicant engaged in inappropriate personal relationships with multiple women, which seriously compromised his standing as an officer. Witnesses described inappropriate personal relationships between the applicant and two other women, [Redacted #2], a civilian, senior director for a defense contractor and [Redacted #3], a corporate sponsor to the military. These relationships were reported by witnesses to have run concurrent with his marriage. The applicant's repeated inappropriate personal relationships with women over a nine year period was revealed in recent months. The inappropriate personal relationships were incompatible with his status as an officer and a gentleman. **(SUBSTANTIATED)**. The preponderance of the evidence supports the conclusion the applicant engaged in inappropriate relationships with the three named women ([Redacted #1], [Redacted #2] and [Redacted #3]). [Redacted #2] was married to an officer in another branch of the military. He reported first seeing his wife with the applicant in 2008. He discovered they had met in an area hotel. He also photographed the applicant's vehicle in her garage and [Redacted #2's] relationship with the applicant was the cause of their divorce in 2013. [Redacted #2] in 2014 also told a general officer after being interviewed for a position that she and the applicant were dating. Witness testimony revealed in 2015, the applicant confided to his wife of his relationship with [Redacted #3] and that it was difficult to have both his wife and mistress at his promotion ceremony in 2015. Photographs and love letters were also discovered on a computer. The applicant and his wife divorced on 3 Dec 18. The State in which they divorced did not provide for a legal separation; however, the parties settled on an agreement in Aug 18. On 25 Jul 19, SAF/IGS informed the applicant of the two substantiated allegations.

AF Form 3070C, *Record of Nonjudicial Punishment Proceedings (Officer)*, dated 9 Oct 19, shows the applicant received an Article 15 on 21 Nov 19 for the following: (1) Between 9 Oct 17 and 2 Jun 18, he engaged in an inappropriate and unprofessional relationship with [Redacted #2], which compromised his standing as an officer and was conduct unbecoming an officer and gentleman; (2) Between 1 May 18 and 2 Jun 18, he engaged in an inappropriate and unprofessional relationship with [Redacted #1], which seriously compromised his standing as an officer and was conduct unbecoming an officer and gentleman; (3) As a married man, between 27 Jul 18 and 2 Dec 18, he wrongfully had sexual intercourse with [Redacted #1], a woman not his wife, and such conduct was to the prejudice of good order and discipline. Punishment included forfeiture of pay of \$3,500 per month for two months and a reprimand. The applicant, through counsel, stated in

his response there were numerous legal and factual errors with the IO's findings and the unsupportable finding of an inappropriate relationship and the unsupportable finding of adultery.

On 22 Jul 20, an OGD board convened to conduct a formal grade determination as required by 10 U.S.C. § 1370(a) and AFI 36-3203, *Service Retirements*, based on two substantiated allegations from a SAF/IG investigation and the NJP. The period of the substantiated allegations are from 27 Jul 18 and 2 Dec 18 and 1 May 08 and 2 Jun 19. The applicant's effective dates for promotions are O-6 on 1 Jan 07, O-7 on 10 Nov 11 and O-8 on 2 Mar 15.

The OGD board recommended the applicant's service in the grade of O-8 be found unsatisfactory but his service in grade O-7 be found satisfactory and he be retired in the grade of O-7/brigadier general. The OGD board considered the following five factors in AFI 36-3203:

a. Nature and length of the improper conduct: The applicant's misconduct occurred during multiple grades and multiple assignments. The applicant was married to his wife, now a retired Air Force colonel, from 11 Mar 91, until his divorce on 3 Dec 18. The parties entered into a separation agreement on 17 Aug 18. The OGD board found the applicant's behavior with [Redacted #1], a subordinate on his staff, extremely egregious and there was overwhelming evidence of the misconduct. The OGD board considered his relationships with [Redacted #2] and [Redacted #3]. Due to the statute of limitations, only the inappropriate and unprofessional relationship with [Redacted #2] was charged as an offense in the NJP. It was reported the relationship with [Redacted #3] began when the applicant was an O-6 and the applicant had admitted he had a sexual relationship. The board agreed with the SAF/IG findings the applicant's relationship with [Redacted #2] lasted from the fall of 2011 (the applicant was promoted to O-7 in Nov 11) to the time of his divorce in Dec 18. It was reported their relationship was the cause of [Redacted #2's] divorce in Nov 13. There were also numerous reports of the applicant's encounters with [Redacted #2] and that they were dating. However, the board distinguished the relationships with [Redacted #2] and [Redacted #3] with [Redacted #1] as they did not involve a subordinate but civilians, they were not as widely known and only substantiated as an inappropriate and unprofessional relationship vice adulterous relationship.

b. Impact of conduct on military effectiveness: The applicant's adulterous, inappropriate and unprofessional relationship with [Redacted #1] when he was an O-8 adversely impacted good order and discipline. The OGD board determined his service as an O-8 was unsatisfactory. The applicant's inappropriate and unprofessional relationship with [Redacted #3] began the last year he was an O-6, throughout his time as an O-7 and into his service as an O-8. However, there was minimal evidence the relationship had an adverse impact on military effectiveness. The OGD board noted his conduct with [Redacted #2] was more widely known and reflected poorly on the Air Force, since [Redacted #2] was married to an officer in another military branch and the applicant was also married. However, the OGD board found his conduct with [Redacted #2] and [Redacted #3] did not rise to the level to render his service as an O-6 or O-7 unsatisfactory.

c. Quality and length of officer's service. The applicant was promoted to O-6 on 1 Jan 07, O-7 on 10 Nov 11 and O-8 on 2 Mar 15. The OGD board found his accomplishments as an O-6 and O-7 outweighed his misconduct and rendered his service in these grades as satisfactory; however, found his misconduct while an O-8 was unsatisfactory.

d. Past cases involving similar conduct: The OGD board was informed of three prior cases involving somewhat similar conduct. However, there were no other cases where the misconduct crossed multiple grades.

e. Recommendations of the chain of command. The OGD board concurred with the applicant's chain of command his service in the grade of O-7 was satisfactory. The inappropriate relationships with [Redacted #2] and [Redacted #3] did not involve subordinate military members,

the relationships were not substantiated as adultery and there was little impact on military effectiveness.

On 27 Jul 20, the Secretary of the Air Force Personnel Council (SAFPC) prepared a staff package to obtain the SECAF's decision as to whether the applicant be retired in the grade of O-8, O-7, O-6 or O-5/lieutenant colonel. SAFPC informed the SECAF of the background, to include the findings of the SAF/IG ROI, NJP, and the recommendations of his chain of command and the OGD board he be retired in the grade of O-7. SAF/MRB concurred with the recommendation of the OGD board he be retired in the grade of O-7. SAFPC also advised that SECAF could alternatively determine the applicant be retired in a lower rank. SAFPC provided the SECAF the instruments and notification memorandums for decision and signature. On 28 Sep 20, the SECAF determined the applicant did not serve satisfactorily in the grades of O-8 and O-7 within the meaning of 10 U.S.C. § 1370(a) but his service in the grade of O-6 was satisfactory and directed he be retired in the grade of O-6.

On 28 Sep 20, the SECAF, as required in DoDI 1320.04, *Military Officer Actions Requiring Presidential, Secretary of Defense or Under Secretary of Defense for Personnel and Readiness Approval or Senate Confirmation*, notified the SECDEF through the CJCS and the Under Secretary of Defense for Personnel and Readiness (USD P&R), the applicant would be retired in the grade of O-6. The SECAF stated she reached the decision after reviewing the applicant's entire military record, which included two substantiated adverse findings from a Sep 19 SAF/IG investigation that substantiated between 27 Jul 18 and 2 Dec 18, the applicant a married man wrongfully had sexual intercourse with a female subordinate in his command and between 1 Oct 10 and 2 Jun 19, he engaged in an inappropriate personal relationship with multiple women, which compromised his standing as an officer. Based on the results of the investigation, on 21 Nov 19, the MAJCOM/CC imposed NJP on the applicant. After considering the totality of the circumstances, including the results of an OGD board, the SECAF determined he did not serve satisfactorily in the grades of O-8 and O-7 within the meaning of 10 U.S.C. § 1370(a); however, he did serve satisfactory in the grade of O-6 and shall be retired in the grade of O-6.

In a memorandum dated 23 Oct 20, the CJCS informed the SECDEF the SECAF was providing notice of the intent to retire the applicant in the grade of O-6. The CJCS reviewed the adverse information and the Air Force's assessment of his service and recommended he be retired in the grade of O-7.

On 31 Dec 20, the applicant was discharged from active duty in the grade of O-8 and retired effective 1 Jan 21 in the grade of O-6. The applicant's HGH shows as O-8. He was credited with 31 years, 7 months, and 1 day of active duty service.

Counsel provides a memorandum from the CJCS to the SECAF dated 16 Jun 23 stating he previously provided advice to the SECDEF recommending the applicant be retired in the grade of O-7. However, despite that advice and the recommendation of the OGD, the SECAF decided the applicant be retired in the grade of O-6. Given the circumstances, the CJCS requested the SECAF exercise appropriate powers to expedite the review of the applicant's case. He remains steadfast in his advice and supports the applicant's request to be retired in the grade of O-7.

For more information, see the excerpt of the applicant's record at Exhibit B and the Applicable Authority/Guidance.

APPLICABLE AUTHORITY/GUIDANCE

10 U.S.C. § 1370(a)(1) Retirement in Highest Grade in Which Served Satisfactorily. In general, unless entitled to a different retired grade under some other provision of law, a commissioned

officer shall be retired in the highest permanent grade in which such officer is determined to have served on active duty satisfactorily.

10 U.S.C. § 1370(a)(2) Retirement in Highest Grade in Which Served Satisfactorily. The Determination of Satisfactory Service. The determination of satisfactory service of an officer in a grade shall be made by the Secretary of the Military Department concerned if the officer is serving in a grade at or below major general (O-8).

AFI 36-3203, *Service Retirements*, dated 18 Sep 15, paragraph 7.6. Officer Grade Determination (OGD) in Conjunction with Retirement (10 U.S.C. § 1370). An officer is not automatically entitled to retire in the HGH. Instead, an officer is retired in the HGH served on active duty satisfactorily or creditable service as determined by the SECAF or delegee.

Paragraph 7.6.1. OGDs will result in either a decision to retain the officer's current grade as the retired grade or change the retired grade to a grade lower than currently held.

Paragraph 7.6.2. The determination of "satisfactory or creditable service" in a particular grade is a matter of Secretarial discretion.

Paragraph 7.6.2.2., In considering whether an officer has provided satisfactory or creditable service, the SAFPC may consider the nature and length of the officer's improper conduct, the impact the conduct had on military effectiveness, the quality and length of the officer's service in each grade at issue, past cases involving similar conduct, and the recommendations of the officer's command chain. A single incident of misconduct can render service in a grade unsatisfactory despite a substantial period of otherwise exemplary service.

Paragraph 7.6.3. Initiating an OGD. The unit commander or appropriate authority will initiate an OGD when the officer: Paragraph 7.6.3.5. The officer in the grade of O-4 or above, since their last promotion, has been the subject of any substantiated adverse finding or conclusion from an official documented investigation, proceeding or inquiry conducted by competent military or civilian authorities (except minor traffic infractions, regardless of the command action taken against the officer (if any).

Paragraph 7.6.4. If any of the listed circumstances exist, the commander must initiate an OGD. The subject officer must be notified of the reason for the OGD and afforded an opportunity to respond. All information relevant and material to the determination of "satisfactory service" in each grade at issue must be provided to the subject officer with the opportunity to respond.

DoDI 1320.04, *Military Officer Actions Requiring Presidential, Secretary of Defense or Under Secretary of Defense for Personnel and Readiness approval or Senate Confirmation*, dated 3 Jan 14, Enclosure 5: Procedures Specific to O-7 through O-10 Actions, paragraph 4(c)3(j), *Retirements in the Grades of O-7 and O-8*, If the Secretary of the Military Department intends on exercising their authority to retire a general officer at a lower grade, they must forward a memorandum through the CJCS and USD P&R to the SECDEF advising of such intent. The SECDEF must be advised at least 21 duty days in advance of the Secretary of the Military Department completion of such action.

In an action before the AFBCMR, the burden is on the applicant to establish by a preponderance of evidence the existence of an error or injustice. 32 C.F.R. § 865.4(a); AFI 36-2603, paragraph 4.1.

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 Secretary's Officer Grade Determination retiring the applicant in the grade of O-6 was rational, supported by substantial evidence, and did not violate any laws or regulations.

First, the Secretary has the sole authority to determine the highest grade in which the applicant's service was satisfactory. An officer is not automatically entitled to retire in the highest grade held. Instead, an officer is retired in the highest grade in which the officer's service was "satisfactory" under law. The purpose of an Officer Grade Determination is to establish the highest grade in which an officer's service meets this criterion. Under 10 U.S.C. §1370(a)(2), the determination of "satisfactory" service, and consequently, the retirement grade, "shall be made...by the Secretary of the military department concerned..." Air Force regulations likewise state the "determination of satisfactory or creditable service in a particular grade is a matter of Secretary discretion." In rendering this determination, the Secretary considers the five mandatory factors listed above. Additionally, before rendering a decision, the Secretary may, but is not obligated to, seek the recommendation of the "Air Force Personnel Council." Importantly, this recommendation is non-binding, and the Secretary is neither compelled to obtain it nor bound by its recommendation. In the applicant's case, although the Secretary sought Council review, the decision to not adopt the recommendation was within the Secretary's discretion and not an error nor an injustice. The applicant contends that the Secretary's decision to not adopt the non-binding recommendation constitutes an error as it means the Secretary did not consider the recommendation. However, the applicant lacks the evidence to substantiate this claim. Indeed, the record evidence demonstrates the opposite. The evidence demonstrates that the Director of the Air Force Review Boards Agency routed the non-binding recommendation to the Secretary for consideration before rendering her determination. Further, the decision to not adopt the recommendation does not imply a lack of consideration. What is more, even if the Secretary were to ignore the recommendation - an assertion not proven by the applicant - it would not necessitate relief, as the Secretary retains sole discretion over satisfactory service. Consequently, the applicant fails to demonstrate an error or injustice in the Secretary's choice to not adopt the Council's recommendation.

Second, contrary to the applicant's claims, the Secretary's decision to retire the applicant in the lower grade of O-6 is supported by substantial evidence, including inappropriate relationships with multiple women from 1 May 08 to 2 Jun 19. An IG investigation documented this misconduct, spanning his time as an O-6 and O-7, noting that he engaged inappropriate relationships with three women, which brought "dishonor to himself and seriously compromis[ed] his standing as an officer and his character as a gentlemen." According to this investigation, his relationship with [Redacted #2] coincided with his promotion to O-7 on 10 Nov 11. The evidence substantiates his engagement in inappropriate relationships while holding the grade of O-7, rendering the Secretary's decision reasonable. The Board also noted that according to law and policy, a single incident of misconduct can render service in a grade unsatisfactory despite a substantial period of otherwise exemplary service. Therefore, the record evidence substantiates the applicant engaged in inappropriate relationships while in the grade of O-7, and therefore the Secretary's decision is not irrational as the applicant claims. The Board likewise noted that the Air Force Personnel Council, reviewing the same IG investigation, similarly concluded that the applicant engaged in misconduct, specifically noting the inappropriate relationships during his time as an O-7.

Third, the IG investigation, detailing misconduct in the grade of O-7, is not solely based on hearsay, contrary to the applicant's claim. The applicant contends that the Secretary's reliance on the IG investigation is erroneous because the investigation is not sufficiently reliable. The Board, after thorough review of the IG Report of Investigation, finds this claim is not supported by the evidence. The O-6 Investigating Officer (IO) appointed for the task of investigating the applicant's misconduct, conducted a comprehensive inquiry relying on multiple witness accounts of inappropriate relationships to substantiate the allegation against the applicant. The witness statements, obtained from 24 individuals, included individuals with firsthand knowledge of the inappropriate relationships at issue. The witnesses interviewed included [Redacted #1], [Redacted

#3], United States Air Force Warfare Center (USAFWC) Directors, defense contractors, the applicant's executive officer and protocol staff. These witness statements support the investigation's conclusions. Among other evidence, the ROI demonstrates that [Redacted #2's] then husband testified from personal knowledge about the applicant's relationship with his wife. Evidence in the record also indicates that eventually the applicant's relationship with [Redacted #2] became public as the applicant attended events with [Redacted #2]. The Board noted that multiple testimonials describe applicant's ongoing inappropriate relationship concurrent with the applicant's marriage, corroborating the investigation's findings. While the applicant's claims the ROI is unreliable and based on hearsay, the Board finds the ROI includes substantial evidence the applicant engaged in inappropriate and unprofessional relationships during the relevant time period. Likewise, the Board also finds the applicant's contention that the IG investigation presumed guilt based on the applicant's decision to not provide a witness statement is without merit. The record indicates the IO relied on the affirmative evidence of misconduct including the witness statements to substantiate the allegation and did not draw inappropriate inferences from the applicant's decision to not participate in the investigation.

The Board also noted the Secretary complied with DoD instructions and, in particular, she complied with DoDI 1320.04. On 28 Sep 20, the Secretary notified the SECDEF, CJCS and USD P&R that upon reviewing the totality of the circumstances, including the results of an OGD, the applicant's service in his current grade and as an O-7, was not satisfactory within the meaning of 10 U.S.C. § 1370(a). In sum, the Board concluded the applicant failed to demonstrate any error or injustice in the OGD process resulting in his retirement in the grade of O-6. The Secretary's Officer Grade Determination in the applicant's case was both rational, supported by substantial evidence, and did not violate any laws or regulations. The Secretary considered and weighed the evidence on record and reached a well-reasoned conclusion in line with legal and regulatory standards. Therefore, the Board recommends against correcting the applicant's record.

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-2023-01966 in Executive Session on 21 Sep 23:

, Panel Chair
, Panel Member
, Panel Member

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

Exhibit A: Application, DD Form 149, w/atchs, dated 14 May 23.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: AFOSI Report of Investigation, dated 31 May 19. (WITHDRAWN)
Exhibit D: SAF/IG Report of Investigation, dated Sep 19. (WITHDRAWN)
Exhibit E: SAFPC/OGD, w/atchs, dated 30 Jul 20.

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.