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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02709

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Her Officer Performance Report (OPR), rendered for the period 7 Apr 21 through 6 Apr 22, be declared void and removed from her records.

APPLICANT'S CONTENTIONS

She made an Inspector General (IG) complaint against her supervisor for an illegal order and hostile work environment. The complaint was substantiated, and her supervisor was punished for a toxic work environment. After that, she received several unjust and unfair administrative punishments (letters of counseling and reprimand) based on factually incorrect information. Those administrative punishments resulted in the referral OPR she would like removed from her records.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a former Air Force captain (O-3).

According to the applicant's DD Form 214, *Certificate of Release or Transfer from Active Duty*, she entered active duty on 1 Oct 17 and separated on 14 Nov 22. She was credited with 5 years, 1 month, and 14 days of active service.

On 15 Apr 21, the applicant filed an IG complaint.

On 29 July 21, the applicant received a Letter of Counseling (LOC) from the Special Agent in Charge (SAIC) for lacking in areas of Department of the Air Force foundational competencies as well as the Airman Leadership Qualities for developing and evaluating Airmen and to clarify aspects that were discussed in-person, verbally over the phone and via video teleconference, as well as conveyed via email and/or text message in the recent past. The applicant submitted a response to the LOC on 3 Aug 21.

On 21 Aug 21, the Commander Directed Investigation (CDI) was initiated and on 15 Sep 21, a CDI final report was rendered on the SAIC for the period of 23 Aug 21 – 3 Sep 21 for allegations of obstructing the Personnel Security Clearance investigation of a contractor employee, detracting from Air Force Office of Special Investigation's (AFOSI) character or reputation and committing a series of acts so severe and pervasive as to alter the terms and conditions of employment of personnel assigned to the unit, resulting in a hostile work environment in violation of AFI 1-1, *Air Force Standards*, AFI 36-73, *Civilian Conduct and Responsibility*; Air Force Guidance Memorandum to AFI 36-2909, *Professional and Unprofessional Relationship*; *Standards of Professional Conduct for AFOSI Personnel*. According to the Report of

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Limited Dissemination Control: N/A

POC: SAF.MRBC.Workflow@us.af.mil

Investigation, the allegation of obstructing the Personnel Security Clearance investigation of the contractor employee, detracting from AFOSI's character or reputation was unsubstantiated. The allegation of committing a series of acts so severe and pervasive as to alter the terms and conditions of employment of personnel assigned to the unit, resulting in a hostile work environment in violation of AFI 1-1, AFI 36-73, Air Force Guidance Memorandum to AFI 36-2909, AFOSII 36-2901, was found to be substantiated.

On 13 Dec 21, the applicant was given a Record of Individual Counseling (RIC) from the Assistant Special Agent in Charge (ASAIC) for "failure to follow instructions," the applicant submitted a response to the RIC on 13 Dec 21.

On 13 Jan 22, the applicant received a Letter of Reprimand (LOR) from her commander for disobeying a direct order. The applicant submitted a response to the LOR on 24 Jan 22.

On 10 Feb 22, the applicant was given an LOC from the SAIC for "sharing the news of her LOR for failure to go and disregard of a direct order with her colleagues and subordinates was ill-advised, she voluntarily chose to do so, conveying she received an LOR but then also proceeding to associate her LOR (which was specific to her Squadron Officer School non-attendance) as a reflection of poor performance by her subordinate(s), co-workers, and peers." The applicant submitted a response to the LOC on 16 Feb 22.

On 8 Jun 22, the SAIC drafted a Memorandum for Record (MFR) to document events leading up to the issuance of an LOR to the applicant on 12 May 22 (later rescinded on 24 Jun 22). The applicant submitted a response to the MFR on 16 Aug 22.

On 29 Jun 22, the applicant received an LOR from the SAIC for failure to fulfill her duties in a timely and sufficient manner. The applicant submitted a response to the LOR on 7 Jul 22.

On 18 Jan 23, the applicant received a referral OPR. The applicant submitted a response to the referral OPR on 31 Jan 23.

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

AIR FORCE EVALUATION

AFPC/DP3SP (Evaluations), recommends granting the applicant's request. The applicant filed an IG complaint form on 15 Apr 21 and the investigation was initiated on 21 Aug 21. Based on the allegations from the applicant, the CDI was able to substantiate the hostile work environment findings against the rater based on the preponderance of evidence. It identified the rater did commit a series of acts so severe and pervasive as to alter the terms and conditions of employment of assigned personnel resulting in a hostile work environment.

From the date the applicant filed the complaint to when it was completed, she received three administrative actions against her. She received an LOC on 29 Jul 21 and an LOR on 29 Jun 22 from the SAIC. The applicant also received a RIC on 12 Dec 21 from the ASAIC. Based on the completed legal review dated 21 Dec 21, it substantiated the hostile work environment claim from the applicant. Due to those findings, they contend the applicant provided credible evidence the referral OPR completed by the rater, was unjust and it should be removed from the applicant's record. This is in accordance with AFI 36-2406, *Officer and Enlisted Evaluations Systems*, paragraph A2.5.9 due to unfair treatment to the applicant during the rating period and her claim was reviewed and validated by the appropriate officials.

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 27 Mar 24 for comment (Exhibit D), 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 the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP3SP and finds a preponderance of the evidence substantiates the applicant's contentions. Therefore, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show the Officer Performance report rendered for the period of 7 Apr 22 through 6 Apr 23, be declared void and removed from her record.

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-2023-02709 in Executive Session on 11 Jun 24:

Work-Product, Panel Chair

Work-Product, Panel Member

Work-Product, Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 18 Aug 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DP3SP, dated 20 Mar 24.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 27 Mar 24.

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.

7/29/2024

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Board Operations Manager, AFBCMR

Signed by: Work-Product

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