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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01558

COUNSEL: [REDACTED]

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The following adverse information be expunged and removed from his Master Personnel Records Group (MPerRGp) and his Officer Selection Record (OSR):

- a. His Letter of Reprimand (LOR), dated 9 Mar 23.
- b. His referral Officer Performance Brief (OPB), for the period 10 Apr 22 thru 31 May 23 (**Failure to Exhaust; Has not applied to the ERAB**).
- c. His Unfavorable Information File (UIF).
- d. The Relief of Command for Cause memorandum, dated 22 Mar 23.

APPLICANT'S CONTENTIONS

He was issued an LOR and removed by his group commander due to a one-time lapse in judgement. He has never made, nor will he ever make excuses for his actions. The decision to violate his own personal standard with alcohol as a commander and to neglect his own base health needs was entirely his, and his alone. He has used this isolated incident as an opportunity to grow professionally, and with humility and vulnerability, he has shared the details of his incident with hundreds of fellow officers and Senior Noncommissioned Officers, and as described in the dozen of character letters he has provided, all of them continue to respect him as an outstanding leader/man of character and still desire to have him lead them in peacetime and combat.

The initial decision to issue him an LOR was made with limited information absent of his new evidence, which is critical exculpatory information to the allegations. Based on the opinions of an experienced medical provider, the new evidence shows he had significant medical issues that compounded the effects of alcohol on his body. Additionally, several months prior to his non-criminal lapse in judgement, he was admitted to the emergency room for almost identical symptoms to what he experienced the night he unfortunately entered into the wing commander's home, who also happened to be his group commander's next door neighbor and personal friend. These medical and social issues cannot be overlooked, especially when the allegations about alcohol intoxication are absent of any legal proof. Furthermore, after reviewing the newly presented evidence, the LOR issuing authority's commander, who was also his wing commander at the time, has endorsed a memorandum stating he disagrees with the decision to issue the LOR which drove the subsequent adverse actions. Moreover, his current commander, the Air Force Warfare Center Commander, has removed the UIF which clearly demonstrates his potential and the need to allow him a rehabilitative path towards rank and positions commensurate with his demonstrated abilities.

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Controlled by: SAF/MRB

Limited Dissemination Control: N/A

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

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If this LOR stands, not only does it double down on the aforementioned adverse actions, but it also triggers a mandatory grade determination board upon his retirement. This board will begin with the proposition that since he received an LOR as a lieutenant colonel, then he failed to serve satisfactory as a lieutenant colonel and would then compel him to overcome that proposition and prove he should not be administratively reduced to major.

Finally, in this non-criminal case, the LOR and associated adverse actions are far outside the norm given the nature of the infraction and the associated exculpatory information that was not considered by the LOR issuing authority. He humbly request the Board support the wing commander's request to remove the LOR, UIF, the Relief of Command for Cause, and the referral OPB from his record.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 9 Mar 23, he was issued an LOR, by his group commander as the result of an investigation that disclosed on 24 Feb 23 he committed conduct unbecoming of an officer in violation of Article 133, Uniform Code of Military Justice (UCMJ). Specifically, he became so heavily intoxicated that a subordinate, and their spouse, felt responsible to provide him with transportation and escort him to what they believed was his residence. However, his level of intoxication prevented him from recognizing that he was not at his residence before entering. Upon entering the residence, he proceeded to lock himself in the bathroom, causing great distress to the resident, Mrs. P, and her 10 year old daughter. When he finally exited the bathroom, he was disheveled, unresponsive to Mrs. P's repeated requests to leave, and remained in the residence for several minutes after Mrs. P demanded he leave. On that same date, he acknowledged receipt and had three (3) duty days in which to provide a response.

On 10 Mar 23, he submitted his response.

On 22 Mar 23, his group commander, upon considering the applicant's response, decided to sustain the LOR and place the LOR in the applicant's OSR and UIF. On that same date, according to memorandum, *Notice of Relief of Command*, the group commander informed the applicant of his decision to remove him from command for cause.

On 9 Apr 23, the applicant provided a response to his Relief of Command.

On 4 Jan 24, the applicant's *Officer Performance Brief (O-1 thru O-6)*, for the period of 10 Apr 22 – 31 May 23, Section, *Referral Report*, reflects the group commander referred the report in accordance with DAFI 36-2907, *Adverse Administrative Actions*, paragraph 1.10, as it contains the following statement, which makes it a referral: "<applicant> did not meet the criteria for good judgement and decision making during this rating period. On 24 Feb 23, as a result of alcohol intoxication, <applicant> wrongfully entered a neighbor's residence and was unresponsive to requests to leave. He received a letter of reprimand for this misconduct and was removed from command."

On 5 Jan 24, the applicant provided a response to the referral OPB.

On 4 Mar 24, according to the applicant's OPB, his higher-level reviewer, the wing commander (Col R), did not provide a stratification and concurred with his raters assessment. However, he

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provided the following comment: “I have carefully considered <applicant’s> comment to the referral document of 4 Jan 24. See supplemental DAF Form 77, *Letter of Evaluation* for additional comments.” DAF Form 77, signed by the wing commander on 4 Mar 23, Section IV, *Comments/Impact on Mission Accomplishment*, reflects the following statement: “<applicant> has provided new evidence and is appealing the Letter of Reprimand, removal of command for cause, and this Referral Officer Performance Brief through the Air Force Board for Correction of Military Records. Given this new evidence and the restrictive nature of AFI 36-2406, *Officer and Enlisted Evaluations Systems* and DAFI 36-2907, I will be submitting a letter to the Board on the member’s behalf.”

On 11 Mar 24, according to memorandum from the 480 Intelligence, Surveillance, and Reconnaissance Wing Commander (480 ISRW/CC) addressed to the AFBCMR, provided by applicant, the 480 ISRW/CC (Col R) states he was the applicant’s WG/CC at the time of the incident and based on the entire body of evidence, he supports the applicant request for consideration and removal of the LOR and by extension, the Referral OPB, and removal of command for cause from the applicant’s military records and OSR is in the best interest of the Air Force.

On 8 Feb 24, according to ACC/JA memorandum to AFPC/DP3SA, *Ten-Year Retention Rule Exception Memo - <applicant>*, the ACC Staff Judge Advocate stated the LOR and notice of relief do not meet the exception to the 10-year rule and they should remain in the applicant’s OSR for 10 years.

On 19 Apr 24, according to memorandum from the United States Air Force Warfare Center Commander (USAFWC/CC), *Early Removal of <applicant’s> Unfavorable Information File*, addressed to the AFBCMR, provided by applicant, the USAFWC/CC, in accordance with DAFI 36-2907, dated 14 Oct 22, section 3.4, removed the applicant’s LOR and UIF early.

For more information, see the applicant’s submission at Exhibit A, the excerpt of the applicant’s record at Exhibit B and the advisories at Exhibits C and D.

APPLICABLE AUTHORITY/GUIDANCE

Department of the Air Force Instruction (DAFI) 36-2907, *Adverse Administrative Actions*, 14 Oct 22:

1.2. Adverse Information for Total Force Officer Selection Boards Overview. All adverse information an officer receives will be filed in the OSR and will be considered by promotion selection, special selection, Federal recognition (ANG specific), and selective continuation boards to the grade of O-4 and above (to include processes for O-3 promotions that have “extraordinary adverse information” per Department of Defense Instruction (DoDI) 1320.14, *DoD Commissioned Officer Promotion Program Procedures*). Adverse information is any substantiated finding or conclusion from an officially documented investigation or inquiry or any other credible information of an adverse nature. To be credible, the information must be resolved and supported by a preponderance of the evidence. To be adverse, the information must be derogatory, unfavorable, or of a nature that reflects clearly unacceptable conduct, integrity, or judgment on the part of the individual. Adverse information includes, but is not limited to:

1.2.1.4. LORs.

1.2.1.6. Notice of Relief of Command (for cause). The subject officer will be provided a copy of the Memorandum for Record (MFR) and will be afforded an opportunity to submit written

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comments in response to the filing of the Notice of Relief of Command (for cause) in the OSR. This is a response to the OSR filing and not the adverse action issued to the officer. The MFR and the officer's comments (if any) will be sent to the Secretary of the Air Force, Office of the Inspector General, Complaints Resolution Directorate (SAF/IGQ), in accordance with AFI 90-301, *Inspector General Complaints Resolution*, Tables 4.4, 7.1 and 8.2, and to the member's Military Personnel Flight (MPF), Commander's Support Staff (CSS), or equivalent personnel support function for inclusion in the Master Personnel Records Group (MPerRGp) and OSR.

1.2.3. All adverse information as defined by this instruction will be permanently placed in the MPerRGp. **(T-0)** Except for the set aside of a court-martial or nonjudicial punishment, removal of adverse information from the MPerRGp may only be directed pursuant to an Air Force Board for Correction of Military Records (AFBCMR) recommendation.

1.2.4.1. For O-6 and below boards and processes. For ten years, except for substantiated conduct, any single act of which, tried by court-martial, could have resulted in the imposition of a punitive discharge and confinement for more than one year. **(T-0)** If the exception is met, the adverse information will remain in the OSR. **(T-0)** Except for the set aside of a court-martial or nonjudicial punishment, earlier removal of adverse information from the OSR may only be directed pursuant to an AFBCMR recommendation.

1.2.5. The date of command action is used to establish the 10-year time period.

1.2.5.2. MAJCOM and FLDCOM staff judge advocates will provide a separate memorandum articulating whether the officer's adverse information meets or does not meet the exception to the 10-year retention rule as outlined in **paragraph 1.2.4** and **paragraph 1.2.5.1** for retention beyond 10-years. The memorandum will be included with the command action documents submitted to the MPF, CSS, or equivalent personnel support function for inclusion in the MPerRGp.

AIR FORCE EVALUATION

AFPC/DPMSSM recommends granting the request to remove the LOR and referral OPB from his record. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice. The LOR states he became so heavily intoxicated his subordinate and their spouse felt responsible to provide him with transportation and took him to the incorrect house. However, after being issued the LOR, the applicant has provided new information that his intoxication was potentially amplified and/or he was experiencing side effects due to newly prescribed medication. Based on this new information, the applicant's commander has stated it is in the best interest of the Air Force for the LOR to be removed from his record.

The complete advisory opinion is at Exhibit C.

AF/JAJI recommends denying the request. The applicant received due process. He seeks removal of an LOR, removal of the associated UIF, removal of documentation of his Relief of Command for Cause, and removal of his referral OPB from his records. However, the applicant does not claim, nor do they find, any legal error in the processing of the LOR and UIF under DAFI 36-2907, *Adverse Administrative Actions*, the Relief of Command for Cause under DAFI 51-509, *Appointment to and Assumption of Command*, and the referral OPB under AFI 36-2406, *Officer and Enlisted Evaluation Systems*.

He argues new evidence shows his behavior should be attributed to medical issues and other factors compounded by his indulgence in alcohol; effects he says he was unaware of at the time of the incident, and on which his current wing commander recommends granting relief. However, they

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disagree that relief is warranted. He consumed alcohol to self-medicate to relieve the stressors in his life. In his response to the LOR, he admitted to overindulging to cope with those stressors. In his own telling, “I *wanted* to suppress some struggles that night and I *went completely overboard*.” (Emphasis added). The commanders who administered the adverse actions held him to account for this decision and its’ consequences. Assuming prescription medication was contributory, an officer of his grade and experience would be expected to familiarize themselves with the contraindications before deciding to self-medicate. Because he wanted to get drunk, he cannot credibly protest he was ignorant of the contraindications of his medicine and other factors that helped him achieve that end.

The complete advisory opinion is at Exhibit D.

APPLICANT’S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 17 Jul 24 for comment (Exhibit E), and the applicant replied on 2 Aug 24. In his response, the applicant contended the AF/JAJI advisory opinion contained errors and misstatements. First, his current commander is not the one requesting relief. The commander requesting relief was his commander’s commander and his wing commander at the time of the incident. Secondly, his admission of overindulgence is not an admission of alcohol abuse, intoxication, or drunkenness. Thirdly, nowhere in his responses, emails, or memorandums that he has submitted as evidence does he ever say he wanted to get drunk and additionally, there is no evidence that he was legally drunk on that night. He finds it negligent and dangerous on the part of the legal review team to provide the Board with an advisory opinion that is not rooted in fact. He respectfully requests the legal advisory be updated before being presented to the Board. If not, he requests his response be provided to the Board as a response to the advisory opinion.

The applicant’s complete response is at Exhibit F..

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, to include the applicant’s rebuttal, the Board concludes the applicant is not the victim of an error or injustice. While the Board notes the conflicting advisory opinions of AFPC/DPMSSM and AF/JAJI, to include the applicant’s response 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 LOR was due to a one-time lapse in judgement due to medical issues that were compounded by the side effects of alcohol and the LOR and its associated adverse actions; referral OPB, UIF and Relief of Command for Cause were far outside the norm given the nature of the infraction. The Board disagrees. Specifically, the Board notes the applicant was heavily intoxicated, to the point he did not recognize he was not at his own residence before entering his neighbor’s home, where he was unresponsive to the owners repeated demands to leave. The applicant contends his level of intoxication was compounded by medical issues; however, the Board notes in his response to the LOR, the applicant states “I wanted to suppress some struggles that night and I went completely overboard.” Assuming prescription medication was contributory to his level of intoxication, an officer of the applicant’s grade and experience would be expected to familiarize themselves with the contraindications before deciding to self-medicate. While the Board notes, the applicant’s wing commander at the time of the incident recommends granting relief based on the best interest

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of the Air Force, again, the Board disagrees and finds at the time of the issuance of the adverse actions, his commander held him to account for his actions. The applicant was afforded the opportunity to respond to the LOR in accordance with DAFI 36-2907, *Adverse Administrative Actions*. The commander considered his response but chose to maintain the LOR and therefore, the Board finds the evidence presented does not demonstrate an error or injustice warranting removal of the LOR or show that it was unjust or inaccurate as written. Further, the Board finds the commander's decision to issue the LOR and the subsequent adverse actions to be neither arbitrary nor capricious. In addition, the Board finds the commander's decision to remove the applicant from command was well within his authority and the evidence presented is insufficient to demonstrate a material error or injustice that would warrant removal of the Relief of Command memorandum from his record. 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-2024-01558 in Executive Session on 11 Feb 25:

[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 Form 149, w/atchs, dated 26 Apr 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSSM, dated 17 Jun 24.
- Exhibit D: Advisory Opinion, AF/JAJI, dated 17 Jul 24.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 17 Jul 24.
- Exhibit F: Applicant's Response, w/atchs, dated 2 Aug 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.

4/14/2025

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Board Operations Manager, AFBCMR

Signed by: [REDACTED]

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