



Work-Product

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-01561

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: YES

APPLICANT’S REQUEST

1. The Commander Directed Investigation (CDI) allegations of Fraternization, False Statement, and Absent Without Leave (AWOL) be found not substantiated .
2. The CDI be removed from his Officer Selection Record (OSR).
3. The Letter of Reprimand be rescinded and removed from his OSR and his Unfavorable Information File (UIF).
4. The Promotion Propriety Action be reversed and his grade of captain (O-3) be restored with his original date of rank (DOR) of 7 Jul 23.

APPLICANT’S CONTENTIONS

The investigation was launched by his ex-wife who was leveraging her threats to maintain financial benefit in their divorce. The individual at the Air Force Installation and Mission Support Center (AFIMSC) that pushed for the CDI was also a friend and mentor of his ex-wife. In addition, the Investigation Officer (IO) violated DAFMAN 1-101, *Commander Directed Investigations*, and the United States Code of Military Justice (UCMJ) when he: failed to perform an unbiased and impartial investigation; actively hid criminal misconduct when he became aware of it; falsified witness testimony; and refused to consider any evidence that did not work in his pre-determined conclusion. Further, his command refused to activate the resiliency checklist for airman under investigation which aggravated major depressive disorder (MDD); denied him access to the evidence against him; and refused redress when presented with clear and convincing evidence.

In Jul 23, he reported he was a victim of domestic abuse to his command, and the SAF/IGS substantiated the allegation his command did not report this abuse to the authorities. The precedent has been set that AFIMSC actively hid evidence of domestic abuse, and it was confirmed when evidence was provided that the IO knew of the abuse during the investigation and chose to hide it to protect his analysis. The command was of aware of the IO hiding this evidence and chose to protect the IO and dismiss his complaint of wrongdoing. This action on the part of his command was unfair and an injustice as it demonstrates a first lieutenant is held to a higher standard than a major, colonel, and major general.

The applicant’s complete submission is at Exhibit A.

AFBCMR Docket Number BC-2024-01561

Work-Product

Controlled by: SAF/MRB
Work-Product
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

STATEMENT OF FACTS

The applicant is a retired Air Force first lieutenant (O-2).

On 24 Apr 23, according to *Report of Investigation (ROI), Commander Directed Report of Investigation Concerning Fraternization, Extramarital Sexual Conduct, Making a False Official Statement, and Absence Without Leave*, dated 20 Jun 23, the AFIMSC Commander (AFIMSC/CC), a major general, appointed an IO to investigate all aspects of the facts and circumstances concerning allegations of fraternization and extramarital sexual conduct. On 2 Jun 23, the AFIMSC/CC expanded the scope to include an allegation of false official statement and two allegations of absence without leave. The CDI was conducted from 24 Apr 23 through 20 Jun 23 and the IO investigated the following five (5) allegations:

a. <applicant>, AFIMSC, did, within the Continental United States (CONUS), between on or about 1 Feb 22 and on or about 1 Feb 23, knowingly fraternize with SrA [redacted], an enlisted person, on terms of military equality, to wit: engaging in an improper personal relationship, in violation of the custom of the United States Air Force that officers shall not fraternize with enlisted persons on terms of military equality, and that said conduct was to the prejudice of good order and discipline in the Armed Forces and was of a nature to bring discredit upon the Armed Forces.

Finding: SUBSTANTIATED.

b. <applicant, AFIMSC, a married person, did, within the CONUS, between on or about 1 Feb 22 and on or about 1 Feb 23, wrongfully engage in extramarital sexual conduct, as defined in the Uniform Code of Military Justice, with SrA [redacted], a person he knew was married to a person other than himself, and that such conduct was to the prejudice of good order and discipline in the Armed Forces and of a nature to bring discredit upon the Armed Forces.

Finding: NOT SUBSTANTIATED.

c. <applicant>, AFIMSC, did, at or near [redacted] *Work-Work-Product*, TX, or about 18 May 23, with intent to deceive, make to Major [redacted] *Wor...*, investigating officer, an official statement, to wit: "I stayed with my best friend, Capt [redacted] *Wo...* in *Work-Product*," which statement was false in that the said <applicant> did not stay with Captain [redacted] *Wo...* in *Work-Product* during Nov 22, and was then known by him to be so false.

Finding: SUBSTANTIATED.

d. <applicant>, AFIMSC, did, on or about 10 Nov 22, without authority, absent himself from his place of duty at which he was required to be, to wit: the local area of [redacted] *Work-Product*, TX, and did remain so absent until on or about 14 Nov 22.

Finding: SUBSTANTIATED.

e. <applicant>, AFIMSC, did, on or about 26 Dec 22, without authority, absent himself from his place of duty at which he was required to be, to wit: the local area of [redacted] *Work-Product*, TX, and did remain so absent until on or about 31 Dec 22.

Finding: SUBSTANTIATED.

On 20 Jun 23, according to the memorandum, *AFIMSC/RM CDI Legal Review*, the AFIMSC/JA found the CDI legally sufficient, stating “The Investigating Officer (IO) conducted a thorough investigation addressing each allegation; the IO applied the proper evidentiary and legal standard to each allegation and the evidence; the preponderance of the evidence supports the IO's findings of fact; the IO's conclusions are consistent with and supported by the findings; and there are no legal errors or irregularities that impact the investigation. The IO substantiated three of the four allegations. We recommend you concur and notify the subject of your tentative findings.”

On 21 Jul 23, according to memorandum, *Attorney Memorandum in Support of TCL - <applicant>*, through counsel, the applicant provided a 122 page response, to include exhibits, to the tentative conclusion letter (TCL).

On 21 Aug 23, according to Memorandum for Record, *Appointing Authority Approval*, the AFIMSC/CC, upon review of the CDI and the subsequent legal review, concurred with the findings and conclusions of the IO.

On 20 Sep 23, the applicant was issued an LOR by the AFIMSC/CC as the result of an investigation which disclosed that while assigned to [REDACTED] *Work-Product* [REDACTED] *Work-Pr... zt*, AK, he engaged in an improper personal relationship with SrA [REDACTED] *Wor...*, an enlisted person under his supervision. He continued the improper relationship while assigned to AFIMSC, [REDACTED] *Work-Product* [REDACTED] *Work-Prod...* [REDACTED] *Work-Pr... zt*, TX. His improper relationship also violated Uniform Code of Military Justice Article 134 (Fraternization). To convince his wife that he was not spending time with SrA [REDACTED] *Wor...* while they were both in [REDACTED] *Work-Product*, he told his wife he was fishing with AFIMSC coworkers, which also was false. He only admitted the lie when she threatened to call his coworkers. Additionally, the investigating officer (IO) appointed to investigate his misconduct discovered he was twice absent from [REDACTED] *Work-Pr...* without authority when he went to [REDACTED] *Work-Product*, AK, from 10 Nov – 14 Nov and 26 Dec – 31 Dec. Finally, he submitted a written statement to the IO claiming he stayed with his friend Captain [REDACTED] *Wo...* when he visited [REDACTED] *Work-Product*, which he knew was false.

On 2 Oct 23, the applicant provided a 124 page response, to include exhibits. On that same date, the AFIMSC/CC, having considered the applicant's response decided to sustain the LOR and place the LOR in the applicant's UIF.

On 15 Oct 23, according to AF Form 4364, *Promotion Propriety Action*, the AFIMSC/CC notified the applicant his pending promotion delay be resolved by the removal of his name from the promotion list.

On 17 Oct 23, the applicant acknowledged receipt of the notification.

On 27 Oct 23, the applicant signed that he had consulted a lawyer and had submitted a written statement. On that same date, the AFIMSC/JA, upon a legal review, signed that the record is legally sufficient.

On 1 Nov 23, the Reviewing Commander, the AFIMSC/CC, recommended removal from the promotion list.

On 23 Jan 24, the Secretary of the Air Force (SecAF) approved the applicant's removal from the promotion list

On 18 Mar 24, in response to a congressional inquiry, SAF/IGS memorandum addressed to Senator Cruz, provided by applicant, addressed the applicant's allegations he was denied medical treatment, his commander did not properly care for him while he was under investigation for misconduct, and his commander did not report an episode of domestic violence. Their response addressed each allegation individually, as follows:

a. His request to continue to telework for an additional two weeks and his supervisor never responded to his email. Requests from subordinates regarding medical treatment should be responded to in a timely manner; however, lack of response to an email does not equate to a denial of medical treatment.

b. During the first three months of a CDI, his chain of command did not fully execute the *Airman Under Investigation Checklist*, as required, this shortcoming was rectified and addressed with the commander.

c. As part of a written response to an administrative disciplinary action related to the CDI, he notified his commander that his spouse had allegedly physically abused him at another installation, he did not allege ongoing abuse, nor that he was in any immediate danger since his spouse moved out of state six months earlier and his commander had accurately assessed he was not in any immediate harm. However, this alleged incident should have been reported to the proper authorities and this matter has been referred to the appropriate supervisor for further action and remediation. The Air Force Inspector General ensured the oversight has since been corrected, and notifications made.

On 4 Apr 24, according to AF Form 4364, the applicant acknowledge receipt of SecAF's decision to remove him from the promotion list.

On 8 Apr 24, according to applicant's memorandum, *Informal Complaint under Article 138, Uniform Code of Military Justice*, provided by applicant, he alleged the AFIMSC/CC committed the following wrongs against him:

a. Improperly issued a LOR based on a CDI, where the IO was lackadaisical in fact finding, failed to perform an impartial investigation, and directly violated DAFMAN 1-101 and the UCMJ.

b. Failed to activate and execute the resiliency checklist as required during the CDI.

c. The AFIMSC First Sergeant made false statements to the Inspector General to conceal negligence and misconduct.

According to AFIMSC/CC memorandum, *Response to Informal Complaint under Article 138*, undated/unsigned, provided by applicant, the AFIMSC/CC dismissed all three complaints because they are untimely.

On 20 May 24, according to memorandum, *Response to Referral Officer Preselection Brief, dated 15 May 24*, the applicant provided a response to a referral OPB, dated 15 May 24.

On 28 May 24, according to AF Form 715, *Officer Performance Brief (O-1 thru O-6)*, for the rating period of 1 Nov 22 – 31 Oct 23, the applicant acknowledged that he received a referral OPB from his division chief. Section, *Referral Report*, reflects the following statement: "<applicant>

received an LOR for fraternization, absent without leave and providing a false statement to an investigating officer.”

On 3 Jun 24, according to AF Form 715, the Higher Level Review, AFIMSC Director, Financial Management, a SES, signed. Section, *Higher Level Reviewer Assessment*, reflects the following: “I have carefully considered <applicant’s> comments to the referral document of 28 May 24.

According to Special Order Number ACD – **Work-Product**, dated 10 Jan 25, effective 28 Jan 25 the applicant will be relieved from active duty and effective on 29 Jan 25, he will be placed on the temporary disability retired list in the grade of 1Lt per DAFI 36-3212 with a compensable percentage for physical disability of 70 percent.

On 28 Jan 25, according to the applicant’s DD Form 214, *Certificate of Release or Discharge from Active Duty*, he was honorably retired in the grade of 1Lt with the narrative reason of “Disability, Temporary IDES.”

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

APPLICABLE AUTHORITY/GUIDANCE

Department of the Air Force Manual (DAFMAN) 1-101, Commander Directed Investigations, 9 Apr 21, 1.3. CDI Purpose . The CDI is a tool to gather, analyze and record relevant information about matters of primary interest to those in command. The CDI is an extension of the commander’s authority to investigate and to correct problems within the command. As such, the CDI is internal to the command concerned. There are two reasons a commander may want to conduct a CDI: to investigate systemic (or procedural) problems or to look into matters regarding individual conduct or responsibility. CDIs are administrative investigations.

1.4. Standard of Proof. The standard of proof for a CDI is preponderance of the evidence. A preponderance of the evidence is defined as the greater weight of credible evidence. When the greater weight of credible evidence supports the alleged events, it means the events as alleged are more likely than not to have occurred and the investigating officer (IO) may consider the events proven. While the amount of evidence is something to consider, less credible evidence will not trump a smaller amount of more credible evidence. Some additional things to consider when weighing the evidence are witness demeanor, opportunity for knowledge, bias, motive, intent, and the ability to recall and relate events. At all times, IOs must use their own common sense, life experiences, and knowledge of the ways of the world to assess the credibility of witnesses they interview and the evidence gathered in the investigation.

Department of the Air Force Instruction (DAFI) 36-2501, Officer Promotions and Selective Continuation, Chapter 5, *Promotion Propriety Actions (PPAS)*, 5.1., Promotion is not a reward for past service. It is advancement to a position of greater responsibility based on the requirements of the Air Force and the officer’s future potential. If an officer has not met the requirement for exemplary conduct set forth in 10 USC § 9233 or is not mentally, physically, morally, or professionally qualified to perform the duties of the next higher grade, it is in the best interest of the Air Force for the proper authority to initiate action to delay the promotion, to find the officer not qualified for promotion, or to remove the officer’s name from the promotion list. **(T-1)** Early identification of the officer and proper documentation are essential. Formal rules of evidence do not apply to a PPA. However, PPAs are not disciplinary or rehabilitative tools.

5.1.1. Commanders have a responsibility to ensure all commissioned officers under their command have the necessary qualifications to serve in the next higher grade. **(T-0)** When there is cause to believe an officer is not suited for promotion, commanders should initiate a PPA. Do not wait for the completion of an investigation, disciplinary action, trial, or other administrative process to initiate a PPA. Such action does not require proof beyond a reasonable doubt. The standard of proof for a PPA is a preponderance of credible evidence. If one can fairly conclude from the evidence already at hand that an officer is unsuited for promotion, a removal action should be immediately initiated. If, on the other hand, circumstances suggest that an officer "may" not be suited for promotion, and time is needed to determine if the officer should be promoted, a promotion delay should be initiated.

5.1.2. Where removal action is appropriate, even if an officer declines a promotion, initiate removal action because the officer's name otherwise remains on the promotion list.

DAFI 36-2907, Adverse Administrative Actions, 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*).

1.2.1. 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. **(T-0)** 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. **(T-0)** Adverse information includes, but is not limited to:

1.2.1.1. Any substantiated adverse finding(s) or conclusion(s) from an officially documented investigation or inquiry, regardless of whether command action was taken as a result (reference paragraph 1.2.7).

1.2.1.4. LORs.

1.2.3. All adverse information as defined by this instruction will be permanently placed in the MPerRGp. 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.

AIR FORCE EVALUATION

AF/JAJI recommends denying the requests. There is insufficient evidence of legal error; the applicant's LOR, UIF, OSR filing, and PPA all flowed from the substantiated findings of the CDI. On 24 Apr 23, the AFIMSC/CC appointed an IO to conduct a CDI into allegations against the applicant concerning fraternization and extramarital sexual conduct. The investigation stemmed from allegations of an unprofessional relationship between him and SrA [Wor...], who was one of his subordinates at his previous assignment at [Work-Pr...] and was initiated after his wife and SrA [Wor...]'s husband sent concurrent emails to the applicant's and SrA [Wor...]'s respective leadership teams. The investigation disclosed multiple incidents of an improper personal relationship between the

applicant and SrA [Wor...] that began at [Work-Pr...], AK and continued after his permanent change of station (PCS) to AFIMSC at [Work-Pr...], TX, in Sep 22. Those incidents included, but were not limited to, working out at the gym together, walking their dogs together at the dog park, playing Xbox video games together, communicating privately over Xbox, both attending video gaming nights at an enlisted member's house, and overlap in leave locations and dates on multiple occasions. There were also incidents in the work center at [Work-Pr...] creating a perception the applicant was engaging in favoritism with regard to SrA [Wor...]. His leadership at [Work-Pr...] had even counseled him about his relationship with SrA [Wor...] appearing to be too close and personal.

During the course of the investigation, the IO discovered evidence of additional misconduct. As a result, allegations of false official statement and absence without leave were added to the CDI. Investigation disclosed he took two trips from [Work-Product], TX, to [Work-Product], AK in Nov 22 and Dec 22, presumably to visit SrA [Wor...], who was still assigned to [Work-Pr...]. Security Forces entry control logs of scanned DoD ID cards revealed he entered the installation [Work-Pr...] daily for the duration of the two trips. In his written response to the IO's questions, he falsely stated he stayed with his friend, Capt [Wo...], during his trip to [Work-Product] in Nov 22. Capt [Wo...] denied he stayed with her. Capt [Wo...] also did not live on [Work-Pr...]. Following Capt [Wo...]'s interview, he provided corrected answers to the IO, this time stating he stayed with a civilian friend, Ms. [Wo...]. A public records search by the IO disclosed Ms. [Wo...] had no documented connections with [Work-Product], but rather resided in Texas just before the relevant time period. The IO also discovered he lied to his wife concerning the purpose to the two trips, his whereabouts, and who he was with. Further investigation disclosed he had not taken leave for either of those trips and contrary to his claim, his leadership denied giving him a special pass or authorizing him to telework remotely outside the local area.

In addition to two trips to Alaska, evidence disclosed the applicant and SrA [Wor...] were both on leave in Jan – Feb 23 timeframe and both were present at the same time in a bar in a small town in [Work-Product] on a snowmobiling route. The IO discovered the applicant again lied to his wife, stating the trip to [Work-Product] was a work trip with other AFIMSC personnel. The IO found the incident too suspicious to be coincidental and concluded the meet up was likely preplanned. Further, evidence also disclosed both the applicant and SrA [Wor...] had future leave plans in Jun 23 for Florida.

At the conclusion of the investigation, the IO substantiated the allegations of fraternization, false official statement, and absence without leave. However, the IO did not find sufficient evidence to substantiate the allegation of extramarital sexual conduct. A review by the servicing legal office found the CDI to be legally sufficient. Lastly, the appointing authority, the AFIMSC/CC, concurred with the IO's findings and conclusions.

The applicant makes multiple allegations the CDI was not conducted in conformance with DAFMAN 1-101, and the IO engaged in misconduct. These claims are without merit. The CDI was completed in accordance with DAFMAN 1-101. A rational factfinder could conclude it more likely than not the alleged misconduct occurred under the preponderance of the evidence standard. Every reasonable inference from the evidence supports the decisions of the principals who resolved questions of fact and took the actions at issue. All procedural and due process requirements were complied with. There is no evidence of an abuse of discretion. The IO conducted a thorough investigation, weighed witness credibility, and made conclusions supported by a preponderance of the evidence. The LOR was an administrative censure documenting the applicant's violations of standards and was also supported by a preponderance of the evidence. With regard to the PPA, in accordance with DAFI 36-2501, *Officer Promotions and Selective Continuation*, paragraph 5.1.1, "[c]ommanders have a responsibility to ensure all commissioned officers under their command have the necessary qualifications to serve in the next higher grade." Therefore, when there is cause

to believe an officer is not suited for promotion, because they do not meet the exemplary conduct standard of 10 USC § 9233, or are not mentally, physically, morally or professionally qualified, commander should initiate a PPA.

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 11 Mar 25 for comment (Exhibit D), and the applicant replied on 11 Apr 25. In his response, the applicant disagreed with the advisory and contended AFF/JAJI simply repeated the verbiage of the reprimand. Further, he states that two complainants, TD and TC, initiated the investigation, however, the CDI has no record of TC, as this particular complainant made a complaint of adultery against another individual and was encouraged by the IO into making a false statement. Additionally, the other complainant, TD, made three additional complaints of sexual assault, domestic violence, and emotional abuse which were investigated by two organizations outside his chain of command and both organizations concluded that not only was TD not a credible source, she made demonstrably false statements. Lastly, the Air Force has an obligation to provide all available evidence and over 20 witness statements were kept from him and his only defense was to argue against the redacted names and addressing rumors that had no supporting evidence.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all other available administrative remedies 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/JAJI and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant makes multiple allegations the CDI was not conducted in accordance with DAFMAN 1-101, *Commander Directed Investigations*, and that the investigating officer engaged in misconduct. The Board disagrees. After thoroughly reviewing all the evidence, the Board determines the applicant provided insufficient evidence to support his claims; and thus the Board finds his claims to be without merit as the CDI was completed in accordance with DAFMAN 1-101. The Board finds the applicant's behavior violated Air Force standards and the professionalism expected of a commissioned officer. As such, the Board determines the commander's decision to issue the LOR was supported by a preponderance of the evidence and falls well within the bounds of their authority and that the evidence presented does not warrant removal or show it was unjust or inaccurate as written. In addition, the Board determines the subsequent promotion propriety action to be proper, as the preponderance of the evidence showed there was cause to believe that he was not suited for promotion. Furthermore, the Board determines the applicant's circumstances are not unique when compared to similarly situated officers. Therefore, the Board recommends against correcting the applicant's record.
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-2024-01561 in Executive Session on 8 Apr 25 and 30 May 25:

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 26 Apr 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AF/JAJI, dated 20 Feb 25.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 11 Mar 25.
- Exhibit E: Applicant’s Response to Advisory Opinion, 11 Apr 25.

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.

12/10/2025

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Board Operations Manager, AFBCMR
Signed by: USAF