

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 February 2024

DOCKET NUMBER: AR20230008235

APPLICANT REQUESTS: in effect –

- removal of all documents related to his non-selection for promotion to lieutenant colonel (LTC)/O-5 from his Army Military Human Resource Record (AMHRR)
- reinstatement and/or promotion to LTC in the U.S. Army Reserve (USAR) Judge Advocate General (JAG) Corps with a Date of Rank (DOR) of 14 March 2022, and all backpay and allowances
- in the alternative reconsideration for promotion by a Special Selection Board (SSB)

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Title 10, United States Code USC, Section 14502a (Special selection review boards), extract
- Department of Defense Instruction (DoDI) 1320.14 (DoD Commissioned Officer Promotion Program Procedures), extract
- Congratulatory emails, September 2021
- DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag)), 15 September 2021
- Fiscal Year 2021 (FY21) USAR Judge Advocates Selected for Promotion to LTC list, 16 September 2021
- U.S. Army Human Resources Command (HRC) Memorandum - Subject: Delay of Promotion and Referral to a Special Selection Review Board (SSRB), 16 September 2021
- Office of the Judge Advocate General (JAG), Major (MAJ) Career Manager, Personnel, Plans and Training Office (PPTO) email, 13 October 2021
- Office of the JAG Memorandum - Subject: LTC Assignments Tenure Memo for Tenured Personnel Slate (TPS) 21-3, with TPS list, 22 February 2022
- Orders Number C-03-203996, 14 March 2022
- HRC, Headquarters, Department of the Army (HQDA), Officer Promotions, Special Actions email, 13 March 2023

FACTS:

## 1. The applicant states:

a. He is requesting all documents related to his non-selection for promotion from his AMHRR be removed and that he be promoted to LTC/O-5 in the Army Reserve JAG Corps based on the violations of federal statutes that the government cites when referring him to a new SSRB back on 16 September 2021. The Army also actively recruited him for an LTC/O-5 position, granted him tenure, and violated their own flag placed on him when he was allowed to transfer from one Legal Operations Detachment to another.

b. On 16 September 2021, a promotion list was publicly disseminated by the Army/JAG Corps with his name on it. After receiving numerous congratulations from peers, subordinates, and superiors, much to his dismay and humiliation, HRC notified him that he was being referred to this new and retroactive SSRB citing Title 10, USC, Section 14502a and DoDI 1320.14. His promotion board convened in April 2021. Both of these federal statutes were violated in his situation causing much harm to himself. See attachments.

c. It is his position that based on the actions of the Army/JAG Corps, they constructively waived any right to place him on this retroactive SSRB. He feels this is an injustice. The integrity of his SSRB was compromised when his name was publicly disseminated in violation of Title 10, USC, Section 14502a.

d. He requests that his promotion to LTC be reinstated with a DOR of 14 March 2022 (date he assumed his current position) see attachments with all backpay and benefits due. Or at the very least, be reconsidered for promotion to LTC by an SSB due to the length of time (18 months) it took to receive official notification that his promotion was being denied and his name taken off the promotion list.

## 2. A review of the applicant's military records show the following:

a. Having prior enlisted service in the U.S. Marine Corps, Regular Army, and after a break in service, he was appointed as a Reserve commissioned officer and executed an oath of office on 22 April 2004.

b. On 21 February 2013, in Army Board for Correction of Military Records, Record of Proceedings, Docket Number AR20120012968 shows the Board denied his petition to remove the record of his non-selection for promotion to MAJ and promotion to MAJ or in the alternative reconsideration for promotion by a SSB. The Board stated:

(1) The applicant's request to remove all documents related to non-selection for promotion from his AMHRR and be promoted to MAJ, or in the alternative be reconsidered for promotion to MAJ by an SSB has been carefully considered. However, there is insufficient evidence to support his claim.

(2) The applicant's AMHRR confirms all awards not included on the official photograph seen by the promotion board were in fact on file in his AMHRR and available to the promotion selection board. Further, all Officer Evaluation Reports completed prior to his promotion consideration were on file in the AMHRR during his promotion consideration. As a result, there does not appear to be a significant material error in the record viewed by the promotion selection board that would support reconsideration of the applicant for promotion to MAJ by an SSB.

c. On 12 June 2013, HRC published Orders Number B-06-303893, which promoted the applicant to the rank/grade of major (MAJ)/O-4, effective on with a DOR of 11 June 2013.

d. On 29 March 2018, HRC issued the applicant his Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter).

e. On 31 March 2020, the Army Review Boards Agency, Department of the Army Suitability Evaluation Board deliberated on the applicant's petition to transfer the General Officer Memorandum of Reprimand (GOMOR) and all related documents from the performance portion to the restricted portion of the AMHRR and voted to approve transfer of the GOMOR, dated 7 October 2013, and all related documents, in that the intended purpose was served and it would be in the best interest of the Army. "This action is neither retroactive, nor does it constitute a basis for promotion reconsideration. Accordingly, request the aforementioned be transferred from the performance portion of the AMHRR to the restricted portion. It is further requested that a copy of this memorandum, the enclosed record of proceedings, and the enclosed appeal correspondence be placed in the Soldier's restricted file."

f. The applicant's AMHRR is void of documents pertaining to his non-selection for promotion to LTC, and/or orders promoting him to LTC.

3. In support of his case, the applicant provides:

a. Title 10, USC, Section 14502a (Special selection review boards), extract, wherein the applicant highlights, "If a person and the recommendation for promotion of the person is subject to review under this section by a special selection review board convened under this section, the name of the person — (1) shall not be disseminated or publicly released on the list of officers recommended for promotion by the promotion board recommending the promotion of the person; and (2) shall not be forwarded to the

Secretary of Defense, the President, or the Senate, as applicable, or included on a promotion list under section 14308(a) of this title."

b. DoDI 1320.14 extract, wherein the applicant highlights, "adverse information will be presented to promotion selection, special selection, and federal recognition boards that consider officers for promotion to the grades of regular major (or lieutenant commander in the Navy) through colonel (or captain in the Navy), reserve colonel (or captain in the Navy), and general or flag officer grades."

c. Congratulatory emails in September 2021, wherein, his chain of command and colleagues congratulated him on being selected for promotion to LTC.

d. DA Form 268 dated 15 September 2021, which shows a Headquarters, Department of the Army - Delay of Promotion or Removal from a Selection List flag was initiated against the applicant, effective 25 August 2021.

e. FY21 USAR Judge Advocates Selected for Promotion to LTC list, dated 16 September 2021, which shows the applicant's name.

f. HRC Memorandum - Subject: Delay of Promotion and Referral to a SSRB, dated 16 September 2021, which notified the applicant that his name was withheld from the promotion scroll pending a review of the GOMOR dated 7 October 2013 that was identified in the post-board screening. The information was not considered by the Promotion Selection Board that recommended him for promotion. Therefore, he was directed to a SSRB.

g. Office of the JAG, MAJ Career Manager, PPTO email, dated 13 October 2021, between the applicant and Career Manager discussing him finding a unit of assignment.

h. Office of the JAG Memorandum - Subject: LTC Assignments Tenure Memo for Tenured Personnel Slate (TPS) 21-3, with TPS list, dated 22 February 2022, which notified the applicant of his selection for the tenured assignment listed on the TPS 21-3 LTC Assignments Slate.

i. Orders Number C-03-203996 published by HRC on 14 March 2022, which assigned the applicant to his unit in Madison, WI, as a Team Chief, effective 14 March 2022.

j. HRC, HQDA, Officer Promotions, Special Actions email dated 13 March 2023, which notified the applicant that his records were referred to a Department of the Army SSRB for recommendation on his promotable status. The Secretary of the Army recommended the board report be approved and directed the removal of the applicant's name from the promotion list under Title 10, USC, Section 14310(a) and Executive

Order 13358. The directive for removal from the promotion list constituted a non-selection.

BOARD DISCUSSION:

1. The Board reviewed the application, all supporting documents and statements, and the evidence found within the military record, and found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.
2. The Board carefully considered the applicant's request for removal of all documents related to his non-selection for promotion to LTC/O-5 from his AMHRR and determined relief was not warranted. The applicant did not provide sufficient evidence to show the documentation in his AMHRR related to his non-selection for promotion to lieutenant colonel (LTC)/O-5 were incorrect or filed in error.
3. The Board carefully considered the applicant's request for reinstatement and/or promotion to LTC in the USAR JAG Corps with a DOR of 14 March 2022, and all backpay and allowances or in the alternative reconsideration for promotion by a SSB, and determined relief was not warranted.
  - a. The applicant's name was removed from the promotion list, and he was referred to an SSRB because he had a GOMOR in his restricted file.
  - b. The applicant was ultimately, likely not selected for promotion after the details of the misconduct outlined in the GOMOR were made available; this is not an error or injustice in the record, but rather the natural conclusion of a process.

BOARD VOTE:

Mbr 1    Mbr 2    Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation (AR) 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, it states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The ABCMR will decide cases based on the evidence of record. The ABCMR is not an investigative agency.

2. Title 10, USC, Section 14502a (Special selection review boards) states in pertinent part, if the Secretary of the military department concerned determines that a person recommended by a promotion board for promotion to a grade at or below the grade of major general or rear admiral in the Navy is the subject of credible information of an adverse nature, including any substantiated adverse finding or conclusion described in section 14107(a)(3)(A) of this title, that was not furnished to the promotion board during its consideration of the person for promotion as otherwise required by such section, the Secretary shall convene a special selection review board under this section to review the person and recommend whether the recommendation for promotion of the person should be sustained.

a. If a person and the recommendation for promotion of the person is subject to review under this section by a special selection review board convened under this section, the name of the person — (1) shall not be disseminated or publicly released on the list of officers recommended for promotion by the promotion board recommending the promotion of the person; and (2) shall not be forwarded to the Secretary of Defense, the President, or the Senate, as applicable, or included on a promotion list under section 14308(a) of this title.

b. Any special selection review board convened under this section shall be convened in accordance with the provisions of section 14502(b)(2) of this title. Any special selection review board convened under this section may review such number of persons, and recommendations for promotion of such persons, as the Secretary of the military department concerned shall specify in convening such special selection review board.

c. Information Considered — In reviewing a person and recommending whether the recommendation for promotion of the person should be sustained under this section, a special selection review board convened under this section shall be furnished and consider the following: (1) The record and information concerning the person furnished in accordance with section 14107(a)(2) of this title to the promotion board that recommended the person for promotion. (2) "Any credible information of an adverse nature on the person, including any substantiated adverse finding or conclusion from an

officially documented investigation or inquiry described in section 14107(a)(3)(A) of this title."

3. Title 10, USC, Section 14310 (Removal of officers from a list of officers recommended for promotion) states, the President may remove the name of any officer from a promotion list at any time before the date on which the officer is promoted. If an officer whose name is on a list of officers approved for promotion under section 14308(a) of this title to a grade for which appointment is required by section 12203(a) of this title to be made by and with the advice and consent of the Senate is not appointed to that grade under such section during the officer's promotion eligibility period, the officer's name shall be removed from the list unless as of the end of such period the Senate has given its advice and consent to the appointment.

4. DoDI 1320.14 (DoD Commissioned Officer Promotion Program Procedures) establishes policy, assigns responsibilities, and provides procedures for administering the DoD Commissioned Officer Promotion Program pursuant to Title 10, USC. It states, in pertinent part:

a. The Secretary of the Military Department concerned may release the names of selectees to the public in accordance with DoDI 1320.04. The notification to the selected officers will include a general notice of the 18-month promotion eligibility period (with possible 12-month extension) in accordance with Section 629 or 14310 of Title 10, USC, as applicable.

b. Paragraph 3.5.d. (Removal of Selected Officers) states, (1) The Military Department will establish procedures to ensure fair and equitable processing of recommendations to remove officers from promotion board reports or lists. (2) If the Secretary of the Military Department concerned recommends removal of the name of an officer from a report of a promotion selection board to the Secretary of Defense and the recommendation is based on information pertaining to the officer that was not presented to the promotion selection board, then that information will be made available to the officer. Paragraph 3.5.d.(2) also applies to the removal of an officer's name from a promotion list that is submitted to the Secretary of Defense pursuant to Section 629(a) or 14310(a) of Title 10, USC.

c. An officer's promotion eligibility period begins on the date the board report is approved and becomes a promotion list and ends at the end of the 1st day of the 18th month following the month the board report is approved and becomes a promotion list pursuant to Section 629(c) or 14310(c) of Title 10, USC.

d. Except when removal occurs by operation of law, removal of an officer's name from the promotion list requires the signature of the appropriate approval authority in accordance with this paragraph.



e. The Secretary of Defense or the Deputy Secretary of Defense may remove the name of an officer from a board report resulting from a promotion selection board to a grade below general or flag officer. The Secretary of the Military Department concerned may remove the name of an officer from a promotion list resulting from a promotion selection board to a grade below general or flag officer. This authority may not be further delegated.

f. In accordance with regulations the Secretary of the Military Department concerned prescribes, a promotion selection board may be authorized to request administrative information during deliberations to amplify or clarify the official military records, instructions, and information provided to the board. If the request pertains to non-administrative information regarding a particular officer, the rules in Paragraph 3.2.c.(2) apply.

g. Adverse information will be presented to promotion selection, special selection, and federal recognition boards that consider officers for promotion to the grades of regular major (or lieutenant commander in the Navy) through colonel (or captain in the Navy), reserve colonel (or captain in the Navy), and general or flag officer grades. In addition, adverse information that has received significant media attention or is of interest to the Senate Armed Services Committee, as provided in Enclosure 6 of DoDI 1320.04, will be presented to promotion selection, special selection, and federal recognition boards that consider officers for promotion to the grades of regular captain (or lieutenant in the Navy), reserve captain (or lieutenant in the Navy) through lieutenant colonel (or commander in the Navy), and regular and reserve chief warrant officer.

(1) Adverse information that is part of the officer's official military personnel record will be provided to the board.

(2) Pre-board checks of all other Service records that may contain adverse information pertaining to eligible officers will be conducted sufficiently in advance of the board to allow any adverse information identified to be provided to the board after the provisions of Paragraph 3.2.c.(5)(c) have been satisfied.

(3) For adverse information that is not part of the officer's official military personnel record that will be provided to the board, the Secretary of the Military Department concerned, or their designee will require the officer to be: (a) Notified that such information will be presented to the promotion selection board. (b) Provided a copy of the information that will be provided to the promotion selection board. (c) Afforded a reasonable opportunity as determined by the Secretary of the Military Department to submit written comments on that information to the promotion selection board. (d) Provided, to the maximum extent practicable, with an appropriate summary of the information if the officer cannot be given access to the information directly for reasons of

national security. This summary will be prepared by personnel or offices designated in writing by the Secretary of the Military Department concerned.

h. In cases where there is insufficient time after adverse information is identified to satisfy the provisions of Paragraph 3.2.c.(5)(c) before the board convening date, the adverse information may not be presented.

i. Adverse information will be provided to each member of the board at each stage or phase of the board.

5. AR 135-155 (Promotion of Commissioned Officers and Warrant Officers) prescribes the officer promotion function of the military human resource support operations for officers on the Reserve active status list (RASL) and U.S. Army Reserve (USAR) warrant officers (WOs).

a. Paragraph 2–6 (Information provided to boards) states in pertinent part, the Secretariat for Department of the Army (DA) selection boards will ensure that each board member receives a copy of DoDI 1320.14 and the applicable portions of this regulation, for review before the board convenes. Selection boards are also provided the following: (1) The names of all officers in the competitive category to be considered for promotion under 10 USC 14107(a)(2). (2) The performance folder of the AMHRR, including authorized documents not in the My Board File (MBF), the DA Form 4037 (Officer Record Brief (ORB)), and approved separation documents for each officer under consideration. (3) Correspondence to the board submitted under paragraph 2–6c. (4) The service folder of the AMHRR when requested by the board.

b. The following additional information may be provided as needed: (1) The restricted folder of the AMHRR for an officer under consideration when directed in the Memorandum of Instruction (MOI) to the board or when requested by the officer concerned in written communication to the board (see paragraph 2–6c), or when requested by the board and approved by proper authority. The approval authority for all other officers is the Director of Military Personnel Management (DMPM), DCS, G-1. (2) Approved results of prior selection boards, when requested by the board and when directed in the MOI to the board. (3) Adverse information approved for inclusion in the performance folder of the AMHRR during the board's deliberations. The Commanding General, HRC, will forward such information to the board. (4) Administrative information to amplify or clarify the official military records, instructions, and information provided to the board. If a board requests non-administrative information or information reflecting on the conduct or character of a particular officer, the request will be denied.

c. Paragraph 2-19a and b (Removal from promotion list) provide that, the name of any officer erroneously considered and selected for promotion will not appear on any publicly released or officially posted pre-positioned or announced promotion list. Before

the selection board report is approved by the President or the President's designee, the name of an officer in the rank of 1LT or above, may be removed from the report of the board only by the President or President's designee per Title 10, USC, Section 14111. The authority to remove the name of a commissioned officer from a promotion list per Title 10, USC, Section 14310 is delegated to the SECARMY.

d. If an officer is determined to be ineligible for consideration for a reason listed in paragraphs 2–19b(1)(a) through 2–19b(1)(h), the DA Promotions Branch will verify the officer's ineligibility, explain the basis for the officer's ineligibility to the SECARMY, and advise the SECARMY to request that the President approve removal or administrative deletion of the officer's name from the promotion board report or the promotion list.

e. Paragraph 2-20b (Post-Board Screening) states, a post-board screening initiated by the DMPM will be conducted on officers selected for promotion to captain (CPT) through colonel (COL) before the results of the Promotion Selection Board (PSB) are forwarded to the SECARMY. A post-board screening will include, but is not limited to, a review of information in official files maintained by CID, DA Inspector General, CRC, Office of the JAG, the restricted portion of the AMHRR, and a query for suspension of favorable personnel actions (see AR 600-8-2). A board convened at HQDA will review any derogatory information from the post-board screening and advise the DCS, G-1 or designee (normally the DMPM) whether the information is substantiated, relevant, and might reasonably and materially affect a promotion recommendation. An officer with adverse or reportable information that might reasonably and materially affect a promotion recommendation may not meet exemplary conduct requirements for promotion and may be recommended for a delay in promotion and referred to a Promotion Review Board (PRB) as prescribed in chapter 7 or a Special Selection Review Board as prescribed in Title 10, USC, Section 14502a.

f. Paragraph 3-7 (Nonpromotable Status and Delay of Promotion) states in pertinent part, an officer who is recommended for promotion will be in a nonpromotable status, and the officer's promotion will be automatically delayed (that is, the officer is not promoted in spite of the publication of promotion orders), when the officer is the recipient of a referred evaluation report, memorandum of reprimand directed for filing in the AMHRR, or other adverse information filed in the officer's AMHRR which was not available to the board that selected him or her for promotion.

g. Paragraph 3-8 (Delay of promotion of an officer in a nonpromotable status) states, the promotion of any officer who is in a nonpromotable status is automatically delayed. A DA Form 268 will be imposed during the delay. However, absence of a DA Form 268 on the officer's PED does not affect his or her nonpromotable status provided the officer should have been flagged on his or her PED and the flag is imposed as soon as practicable. The office preparing the DA Form 268 must give that officer written notice of the reason for the delay of promotion before its imposition or as soon

thereafter as possible. If an officer is in a nonpromotable status at the time an officer's name is announced on a promotion list, the officer's commander will immediately notify him or her of the reason for the delay. Delays under this provision will be resolved within 6 months of the date the officer would have been promoted. An officer's promotion will not be delayed more than 6 months unless the SECARMY, or the Secretary's designee, grants a further delay. The CG, HRC or designee will monitor cases involving delay and is delegated the authority to grant a further period of delay in cases involving nonpromotable overweight officers and officers under suspension of favorable personnel actions (flagged). A further period of delay is deemed to have been granted in any case that was referred to a PRB, or in cases which court-martial charges are preferred against the officer on the PED. The delay, in such cases, extends until the SECARMY takes final action. In no case may an officer's promotion be delayed more than 90 days after final action in any court-martial or criminal case against the officer in Federal and/or State court, if the officer is otherwise qualified for promotion, or more than 18 months after the date on which the officer would otherwise have been promoted unless further processing for confirmation by the Senate or appointment under Presidential authority is required, whichever is later.

h. Chapter 6 (Special Selection Boards), paragraph 6-2 states, SSBs are convened under Title 10, USC, Section 14502 to consider or reconsider commissioned officers on the RASL for promotion when HQDA determines that one or more of the following circumstances exist: (1) Administrative error (10 USC 14502(a)) (SSB required). An officer was not considered from in or above the promotion zone by a regularly scheduled board because of an administrative error. This would include officers who missed a regularly scheduled board while on the TDRL and who have since been placed on the RASL. (2) Material errors (10 USC 14502(b)) (HRC discretionary, see para 6-13a). (a) The action of the promotion board that considered the officer from in or above the promotion zone was contrary to law in a matter material to the decision of the board or involved material error of fact or administrative error. (b) The board that considered the officer from in or above the promotion zone did not have before it material information for its consideration.

i. A special selective continuation (SELCON) board may be convened in accordance with Title 10, USC, Section 14701 for commissioned officers on the RASL who have twice failed of selection for promotion, provided the officers would or should have been considered by a SELCON board following their second failure of selection for promotion. This decision to grant a special SELCON board will be at the discretion of the SECARMY or his designee.

j. Paragraph 6-11 (Cases not considered) provides that an officer will not be considered or reconsidered for promotion by an SSB or Promotion Advisory Board (PAB) when the following occurs:

(1) The officer is pending removal from a promotion or recommended list and the removal action was not finalized by the SECARMY 30 days before the next selection board convened to consider officers of his or her grade. The officer will be considered by the next regularly scheduled selection board.

(2) An administrative error was immaterial, or the officer, in exercising reasonable diligence, could have discovered and corrected the error in the ORB, or AMHRR. The ORB is a summary document of information generally available elsewhere in the officer's record. It is the officer's responsibility to review his or her ORB, AMHRR, and MBF before the board convenes and to notify the board, in writing, of possible administrative deficiencies in them.

(3) Letters of appreciation, commendation, or other commendatory data for awards below the Silver Star are missing from the officer's AMHRR.

(4) The promotion selection board did not see a nonmandatory evaluation report submitted to HRC after the suspense established in the promotion board zone of consideration military personnel message (MILPER) message.

(5) The required promotion selection board did not consider correspondence to the board president that was delivered to Commander, U.S. Army Human Resources Command (AHRC-PDV-S), 1600 Spearhead Division Avenue, Department 471, Fort Knox, KY 40122 – 5407 after the cutoff date for such correspondence established in the respective promotion board zone of consideration MILPER message.

(6) The consideration in question involved an officer in the Below the Zone consideration.

(7) The officer is a former or retired officer, no longer in an active status. In such a case, promotion consideration and promotion selection requires action by the ABCMR. The application process must be initiated via the ABCMR online application portal <https://arba.army.pentagon.mil/online-application.cfm>, with the submission of DD Form 149 (Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552).

k. Chapter 7 (PRB), paragraph 7-2 states, before the selection board report is approved by the President or President's designee, the name of an officer in a grade above 2LT and below BG, recommended for promotion by a selection board, may be removed from the report of the board only by the President, Secretary of Defense (SECDEF), or Deputy Secretary of Defense pursuant to Title 10, USC, 14111(c). If the SECARMY recommends removal of the name of an officer from a selection board's report and the recommendation includes information that was not presented to the selection board, the information will be made available to the officer. The President, or

his designee, may remove the name of an officer, in a grade above 2LT and below BG, from a list of officers recommended for promotion by a selection board (Title 10, USC, 14310(a)). This authority has been delegated to the SECARMY.

l. Paragraph 7–3 (Basis for referral) states, HQDA will continuously review promotion lists to ensure that no officer is promoted where there is cause to believe that he or she is mentally, physically, morally, or professionally unqualified to perform the duties of the higher grade. In pertinent part, an officer is referred to a PRB for the following reasons: (1) A memorandum of reprimand placed in the AMHRR. (2) Adverse documentation filed in the AMHRR. Referral by the DMPM (see paragraph 2-20).

m. Paragraph 7–4 (Suspension of favorable personnel actions) provides that, the Chief, DA Promotion Branch, HRC will impose a suspension of favorable personnel actions (DA Form 268) in accordance with AR 600-8-2 upon identification of a promotable officer in a non-promotable status or upon referral of a case to a PRB. The failure to prepare a DA Form 268 does not invalidate referral of the action to a PRB, or subsequent action relating to the PRB (including removal from a promotion list). The Chief, DA Promotion Branch will remove the suspension of favorable personnel actions (if not earlier removed by the SECARMY or the SECARMY's designee) when the President or the President's designee decides whether the officer should be removed from the promotion list. The provisions of paragraphs 3-7 and 3-8 regarding non-promotable status and delay of promotions apply.

//NOTHING FOLLOWS//