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**DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 2000-011

FINAL DECISION

[REDACTED]:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14, United States Code. It was docketed on October 19, 1999, upon the BCMR's receipt of the applicant's complete application for correction of his military record.

This final decision, dated August 17, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, a [REDACTED] on active duty, asked the Board to correct his record by modifying his officer evaluation report (OER) for the period from May 1, 1998 to April 30, 1999 (disputed OER).

EXCERPTS FROM RECORD AND SUBMISSIONS

The applicant received the disputed OER while serving as the executive officer (XO) of a Marine Safety Office.

The applicant requested that the disputed OER be modified by raising the marks from 5 to 6 in block 3.a. (planning and preparedness) and from 6 to 7 in block 3.b. (using resources).

The applicant stated that the comments on the OER and those specifically in block 3. (Performance of duties) justify the higher marks and satisfy the prewritten standards on the OER form for a 6 in block 3.a. and a 7 in block 3.b. He specifically referred to the following sentences in block 3. to support his claim for the higher marks:

Proactive XO [executive officer]. Superior focus on all missions & support functions. Decisions envisaged long term, eg convert mil[itary] to civ[ilian] billets; conceived 5 [year] plan to relocate MSO [Marine Safety Office] in to-be-built passenger terminal; directed OPSail 2000 mooring committee; tailored/[prepared] watch [training] for difficult [transfer] season. Developed multi-tiered Y2K strategy, assigned teams to port, unit & personal preparedness—readiness/checkoffs ahead of sched[ule]. Researched/executed billet [changes]; relied less on short rates/used experience optimally. Generated [excellent] reporting of results;

instrumental getting unit mindset & reports to show results vice activities.
Directed overhaul of property [management]; reduced holdings . . .

The applicant stated that he spoke with the commanding officer (CO), who served as the reporting officer and supervisor for the disputed OER, when he first received the disputed OER. The commanding officer and reviewer agreed with the applicant that the marks for the two categories should have been higher. The commanding officer submitted a revised OER, but Coast Guard Headquarters did not accept it for filing because the original OER had already been accepted and placed in the applicant's PDR.

Views of the Coast Guard

On June 15, 2000, the Board received an advisory opinion from the Chief Counsel of the Coast Guard. He recommended that the Board grant relief in this case. In recommending relief, the Chief Counsel was persuaded by the statement from the commanding officer. The CO stated as follows:

Upon examining the [OER] that [the applicant] received back from CGPC-opm [Coast Guard Personnel Command] for the subject period, I immediately noted that I had administratively miss-marked the first two blocks, 3a and 3b on his OER. I called CGPC . . . and advised that I had miss-marked these two blocks, and that the marks were intended to be 6 in 3a, and a 7 in 3b. I was advised that even though this was an administrative mistake, a process needed to be followed to implement any changes, since the OER had been "accepted" into the system.

I hereby declare that my administrative mistake, where I miss-marked blocks 3a and 3b should absolutely be corrected, and the member not suffer from my own administrative shortcomings and human failings. . . .

The Chief Counsel stated that the CO's statement - that he immediately noted the errors with respect to the two marks upon reviewing the copy of the OER that the applicant received from CGPC - is persuasive proof of an administrative error rather than retrospective reconsideration. Therefore, the Chief Counsel recommended relief.

Applicant's Response to the Views of the Coast Guard

On June 16, 2000, a copy of the advisory opinion was sent to the applicant with an invitation for him to respond. He did not submit a response.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's submissions and military record, the Coast Guard's submission, and applicable law:

1. The Board has jurisdiction of this case pursuant to section 1552 of title 10, United States Code. It was timely.

2. The Board finds that an administrative error exists on the disputed OER that should be corrected. There is ample evidence in the record that the CO intended the mark in 3.a. to be a 6 and the mark in 3.b. to be a 7. The Board is persuaded in this finding by the CO's statement that upon reviewing the OER the applicant received from CGPC, he immediately noted that the marks in blocks 3.a. and 3.b. were in error and should have been higher. Additionally, the Board finds that the comments describing the applicant's performance fully support the higher marks.

3. Accordingly, the applicant is entitled to relief.

4. The Coast Guard concurs in this grant of relief.

ORDER

The application of [REDACTED] USCG, for correction of his military record is granted. His record shall be corrected as follows:

The OER for the period May 1, 1998 to April 30, 1999 shall be corrected by raising the mark in 3.a to 6 and the mark in 3.b to 7.

