

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2014-176

FINAL DECISION

This proceeding was conducted under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. After receiving the applicant's completed application on July 8, 2014, the Chair docketed the case and assigned it to [REDACTED] to prepare the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated March 27, 2015, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant asked the Board to remove from her record a Special Officer Evaluation Report (OER) covering her service from February 1 to May 23, 2011, including her addendum to the OER, which she submitted on May 11, 2011. The applicant alleged that the OER was only initiated by her rating chain¹ as a result of "an uncomfortable work environment stemming from a concern of Domestic Violence, vice performance," and not in accordance with Coast Guard policy. The applicant stated that according to Coast Guard policy, "the Officer Evaluation Report (CG-5310A) shall only be used to document Coast Guard officers' performance and potential," but the disputed OER was prepared only to allow her to transfer to another unit.

The applicant alleged that she discovered the error on October 23, 2013, and that she was initially advised by a supervisor that removal of the OER was inappropriate as the administrative process was correct. Following further advisement, the applicant stated, she discovered that the OER did not meet the Coast Guard guidance for content.

¹ A Coast Guard officer is normally evaluated by a "rating chain" of three superior officers, including a supervisor, who completes the first 13 marks on the OER; a reporting officer, normally the supervisor's supervisor, who completes the rest of the OER; and an OER reviewer, who reviews the OER for consistency and comportment with regulations. The system provides for "multiple evaluators and reviewers who present independent views and ensure accuracy and timeliness of reporting." U.S. Coast Guard, COMDTINST M1000.6A, Personnel Manual, Article 10.A.2.a (Change 42, April 2010) (hereinafter PERSMAN).

[REDACTED]

In support of her application, the applicant submitted several documents and military records including the following:

1. Print-outs from the internet showing that [REDACTED], has a high per-capita violent crime rate in comparison to the state and nation.
2. A Debarment Order dated March 29, 2011, [REDACTED] ant's husband, stating that [REDACTED] as promoted from entering [REDACTED] until further notice. [REDACTED]
3. [REDACTED]
4. A request from the [REDACTED] to the Coast Guard Investigative Service (CGIS), dated March 29, 2011, requesting an investigation "into the circumstances and specifics surrounding a matter of potential workplace violence" involving the applicant.
5. A copy of the report of the investigation into allegations that the applicant's husband had acted in a threatening manner toward her at [REDACTED] on March 24, 2011. A follow-up report dated September 8, 2011, states that the applicant and her husband had been referred for counseling and that the counselor had reported that "there were no substantial issues."
6. In a statement dated November 4, 2013, LTJG S. who [REDACTED] from January 6 to May 4, 2011, stated [REDACTED] applicant was the [REDACTED] [REDACTED] and she saw the applicant almost every day during [REDACTED] [REDACTED] performed her duties impeccably, led by example, and a high standard for commitment, knowledge, and military bearing. The applicant [REDACTED] [REDACTED] left [REDACTED], she heard that the applicant had been removed due to a scandal involving her husband, which shocked her because she had been unaware of any such problem and had seen no sign of any disruption while she attended [REDACTED]

The applicant stated that in February 2008, while assigned to her prior unit, her husband, a member of the [REDACTED] was held accountable for a domestic violence incident. After the incident, her husband completed the [REDACTED], and as a result, met the requirements to have the charges against him dropped. The applicant stated that the arrest of her husband, the subsequent court appearance, and the fear of losing her husband, caused her to suffer significant emotional trauma. [REDACTED]

Several months after she transferred to the [REDACTED] on the evening of March 24, 2011, around 10 p.m., she alleged, she and her husband had a verbal argument, after which she decided to walk away from the argument and walk to her workplace at the [REDACTED] which was only about one city block away from her residence. She alleged that the area around her residence at [REDACTED] is known for criminal activity and sexual predators, so she felt that her workplace would be [REDACTED] safest environment for her under the circumstances.

The applicant claimed that she was unaware that the previous domestic violence incident had been reported to her new chain of command at [REDACTED] and that because that information had been disclosed to them, they attempted to protect her [REDACTED] her arrival at the office. The applicant stated that she "vented" to a co-worker upon her arrival, and because she left her

residence in such a rush, did not have her [REDACTED] or cell phone on her. The applicant's husband arrived shortly thereafter, and once the applicant confirmed that her husband had no intention of continuing the argument, they left together. At the time, she was unaware that her command was aware of what had happened in 2008 and would spark new accusations of domestic violence, cause the command to contact CGIS, and "reintroduce [she] experienced in 2008."

[REDACTED] chain of command [REDACTED] responded to this incident [REDACTED] filing a debarring order against the applicant's husband. The applicant alleged that this action, followed by the [REDACTED] for her co-workers and caused the [REDACTED] feel socially alienated from her colleagues, which culminated in her post on Facebook, on April 30, 2011, in which she wrote, "Why does everyone hate me." The applicant stated that the investigation conducted by the Coast Guard Investigative Service (CGIS) found that there was no actual incident of domestic violence and closed the case on September 8, 2011.

The applicant stated that on May 2, 2011, just a couple of days after the Facebook post, her chain of command sought guidance from the Officer Personnel Management (OPM) branch regarding a permanent change of station for her, but she wanted to be able to relocate with her Navy husband who was attached to [REDACTED] her station in the same [REDACTED] informed that the only way she would be a [REDACTED] self-season permanent [REDACTED] Special [REDACTED]. The applicant alleged that so as to not affect her [REDACTED] where she was assigned, her chain of command chose not to move forward with relieving her of her duties and preparing the disputed OER until [REDACTED] on May 6, 2011. The applicant stated that she signed the evaluation on June 6, 2011, under the impression that her signature was only to acknowledge the OER. The OER [REDACTED] OPM on June 10, 2011.

The applicant alleged that at no time was her performance affected by this incident, which [REDACTED] in the addendum to the Special OER. Therefore, she argued, the Special OER and addendum should be removed from her record.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on [REDACTED]. As an enlisted member, she received one negative Page 7 documenting mark of "2" in the Integrity, Loyalty, Respecting Others, and Responsibility sections of her performance evaluation on February 23, 2000, but she advanced to boatswain's mate first class, and attended Officer Candidate School (OCS) to become a commissioned officer.

On [REDACTED], the applicant was appointed to the grade of Ensign (O-1/E). During her first assignment as a Waterways [REDACTED] Management Officer at a Sector Office, the applicant consistently received marks of 5 and 6 and often top marks of 7 in the various performance categories on her OERs; marks in the sixth spot on the comparison scale denoting "an exceptional officer"; and she was strongly recommended for promotion. She was promoted to lieutenant junior grade

(LTJG) on [REDACTED], while assigned to the Sector, and she received a Commendation Medal for this service when her tour of duty ended in June 2010.

On July 1, 2010, the applicant reported for duty at [REDACTED]. On her first semiannual OER in this position, which covers the period July 1, 2010 to January 31, 2011, the applicant received four marks of 5 and thirteen marks of 6 in the performance categories; a mark in the sixth spot on the comparison scale, denoting “an exceptional officer”; and her reporting officer’s note that she had recently been selected for promotion to LT and was “recommended for continued promotion w/ best of peers.”

The disputed Special OER covers the period of February 1 to May 23, 2011, when she was still an LTJG. It was validated by the Personnel Service Center and entered in her record on June 10, 2011. The applicant received mostly marks of 5 and 6, with the following exceptions: marks of 3 for Workplace Climate and Judgment, marks of 4 for Responsibility, Professional Presence, and Health and Well-Being, and a mark in the fourth spot on the comparison scale, describing her as “one of the many competent professionals who form the majority of this grade.” The OER states that it was submitted in accordance with Article 10.A.3.c.(1)(a) of the Personnel Manual,² “due to inappropriate conduct disruptive to the command/workplace environment [and] consistent with good judgment. Per Article 10.A.4.h.(1) this OER is a Derogatory Report. Removed from primary duties on 23 May 11.” The low marks in the disputed OER are supported as follows:

- The mark of 3 for Workplace Climate was supported by the comment, “Negative, inappropriate comments towards [REDACTED] staff/peers posted via online social network; damaged workplace communications/relationships & unit camaraderie, effectiveness & morale.”
- The mark of 3 for Judgment was supported by the comment, “Hasty response to stressful interpersonal situations & relationships; consequences not fully considered prior to reacting despite prior counsel & caution; actions brought discredit upon self, peers & [REDACTED] program.”
- The OER also specifically stated the following in the section for comments about her potential for serving in more responsible, leadership roles:

[The applicant’s] inappropriate actions were uncharacteristic of otherwise noteworthy performance. However the divisive & personal impact of posted comments necessitate relief of primary duties and reassignment. [The applicant] has excelled in duties as both [REDACTED] throughout the marking period as well as a break-in DWO [REDACTED]. Considering that [she] has performed at a LT level since reporting aboard, strongly recommend promotion to LT as scheduled reassignment in best interest of [REDACTED]. In addition, this would afford an opportunity to regain personal/professional momentum & earn consideration for greater responsibilities.

² Article 10.A.3.c. of the Personnel Manual states, “[i]f an individual has been removed from primary duties (other than relief for cause as prescribed by Article 4.F.6) and early transfer from unit is required, a special OER is required before the Reported-on Officer receives consideration for reassignment. An OER documenting removal from primary duties is derogatory and must be submitted in accordance with Article 10.A.4 h. In both cases, the OER counts for continuity.”

The applicant submitted an addendum to the Special OER dated June 6, 2011, which her rating chain forwarded without comment, which states the following:

I have gained the cognizance that despite continuing [REDACTED] due to a significant event that involved me, my husband, and a co-worker/friend, which unfortunately bled over to the workplace, the workplace remained a highly uncomfortable environment for me and several of my peers. I was, however, pleased that the mission of [REDACTED] was never affected by [REDACTED] event and its impact [REDACTED] ment level. Additionally the [REDACTED] I had the opportunity to affect during this period physically highlighted my positive impact [REDACTED] in the U.S. Coast Guard. My time was my ability to work and serve effectively in the Coast Guard affected, and [REDACTED] to continue to professionally develop in the U.S. Coast Guard. [REDACTED]

On May 24, 2011, the applicant was transferred to the regional District office to serve as a strategic operational planning process analyst. On [REDACTED] 2011, she was promoted to lieutenant (LT). On her annual OER for the period May 24, 2011, to May 31, 2012, the applicant received mostly marks of 5 and 6, with a mark of 7 for Adaptability, and a mark in the fifth spot on the comparison scale, denoting an "excellent performer." She was also "[h]ighly recommended for promotion w/ best of peers."

On her next annual OER, dated May 31, 2013, [REDACTED] in the [REDACTED] performance categories, another mark in the fifth spot on the comparison scale, and another strong recommendation for promotion "with best of [REDACTED]"

On her next annual OER, dated March 28, 2014, the applicant received mostly marks of 6 and 7 in the performance categories, another mark in the fifth spot on the comparison scale, and another strong recommendation for promotion "with very best of peers."

VIEWS OF THE COAST GUARD

On December 11, 2014, the [REDACTED] submitted an advisory opinion recommending that the Board deny relief in accordance with the recommendation in a memorandum submitted by the Commander, Personnel Service Center (PSC).

PSC submitted sworn statements from the [REDACTED] who served as the applicant's rating chain during the period of the Special OER [REDACTED] confirming that the Special OER was submitted to document "performance unrelated from the concern of domestic violence":

- In a declaration dated September 14, 2014, the lieutenant who supervised the applicant in 2011 [REDACTED] er, stated, "Unfortunately, the actions of [applicant] on the specific evening of 24 March 2011 displayed an error in judgment, and subsequent follow-on impacts in workplace climate, which was reflected in [applicant's] special Officer Evaluation Report period ending dated on 23 May 2011." The supervisor stated that the OER was "completed fairly" and in accordance with the guidelines although her marks might have been different if she had remained at [REDACTED] because then the marks would have been based on a longer period of performance. He noted, however, that even

if the applicant had remained at [REDACTED], the incident and its impacts would still have affected her next OER marks. Nonetheless, the supervisor recommended removing the disputed OER from the applicant's record because she "is an excellent person and Coast Guard officer" whose career should not be harmed by the unfortunate incident on the night of March 24, 2011, and its repercus[REDACTED]

- In a declaration dated September 12, 2014, [REDACTED] (CDDP [REDACTED] Officer/RO) who was the [REDACTED] in 2011 and [REDACTED] agreed with the applicant's [REDACTED] allegation the OER was initiated because of work environment issues stemming from a per-

The comments in the OER clearly reflect distinct actions (performance) on her part as a member of the [REDACTED] and the consequences of these actions. Although her conduct may have been precipitated by a personal matter, her evaluation reflects the direct results of her own actions on the workplace climate at [REDACTED] as well as the judgment which she exercised in performing specific acts contrary to extensive counseling by leadership. [REDACTED] "workplace climate" and "judgment" sections of the OER incorporate these aspects of her performance into the overall evaluation.

- In a declaration dated September 30, 2014, the CAPT (OER Reviewer), who was the applicant's Commanding Officer in 2011 and is now retired, wrote the following:

I recall everyone at [REDACTED] being very supportive of [REDACTED]. I was informed of a voice mail she left on a co-worker's phone [REDACTED] the incident. The voice mail, which I listened to directly, was filled with anger, accusations, and foul language directed at her fellow officer. The [REDACTED] and [REDACTED] (the applicant) on her inappropriate actions, offered support and directed her to seek assistance in [REDACTED] handling the [REDACTED] incident and ongoing investigation. A few weeks later I was informed about a social media comment posted by [the applicant] that brought discredit to the [REDACTED]. Other people both inside and outside the Coast Guard saw the [REDACTED] and contacted staff members to find out what was going on at [REDACTED]. This personal action by [the applicant] that directly impacted the integrity of the [REDACTED] then and in the future was not in alignment with the Coast Guard core values and did not meet the expectations of an [REDACTED].

PSC argued that the applicant has failed to provide any evidence to show that the disputed Special OER was erroneous or unjust, and has also not provided sufficient evidence to overcome the presumption of regularity with respect to the disputed Special OER. Pursuant to Coast Guard policy, the responsibility for evaluating [REDACTED] officer rests primarily with the Supervisor, RO, and the Reviewer. PSC alleged that [REDACTED] evidence shows that the applicant's rating chain carried out their responsibilities and completed her OER in compliance with Coast Guard policy, by accurately documenting the applicant's performance based on their observations. PSC also acknowledged that the applicant's supervisor is [REDACTED] of removing the disputed OER from the [REDACTED] and, but noted that he did not provide any additional information [REDACTED] performance documented on the Special OER.

PSC contended that the Special OER was drafted as a means to document inappropriate behavior that warranted disciplinary action. PSC stated that [REDACTED] applicant does not dispute the actual behavior which prompted the Special OER. And although [REDACTED] alleged that her perfor-

mance was never affected by the incident. [REDACTED] rating chain has supported the accuracy of the marks and comments as a reflection of her performance during the reporting period.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On January 26, 2015, the applicant responded to the views of the Coast Guard. She repeated many of her allegations, firmly asserting that "[REDACTED] the climate, reactions by all involve [REDACTED] [herself], the [REDACTED] officer, stemmed from the [REDACTED] perception of Domestic Violence." She argued that it was therefore inappropriate for the rating chain to document [REDACTED] her own ability to perform any of her [REDACTED] duties. The applicant stated that her actions on the night of March 24, 2011, and her Facebook posting did not negatively affect the workplace climate. To the contrary, [REDACTED] alleged, the negative workplace climate was directed towards her. Her colleagues failed to invite her to certain social events and one called her husband a "wife beater."

The applicant also noted that she was removed [REDACTED] quickly after her Facebook post even though she had employed the "highest security settings available on Facebook" and so her rating chain could not have directly viewed her posts and her post would not have affected the workplace climate during the reporting period. She stated that her command only learned about the post because a member of the [REDACTED] staff reported it, and that [REDACTED] reason for anyone to believe that her comment [REDACTED] everyone hate [REDACTED]. Moreover, [REDACTED] he alleged, by the time she was removed, her relationship [REDACTED]

[REDACTED] that although her rating chain claimed in the declarations that the OER was accurate based on her behavior on the night of March 24, 2011, they had counseled her soon after [REDACTED] she had showed good judgment in seeking a safe haven [REDACTED] office that night to diffuse the argument with her spouse before returning home. She also disputed her CO's claim that she had left the voicemail message in question on the night of March 24, 2011. She stated that [REDACTED] left the voicemail on April 1, 2011, after learning that the CGIS investigation of the domestic violence charge was continuing even after their family counselor had recommended that it be stopped. She admitted using "heated language" but noted that the recipient of the voicemail was "one of my closest female friends and [a] confidant." She recalled asking this friend why she would lie and make false accusations against the applicant's husband, but she considered it to be a message between two friends. [REDACTED] learned that the officer had allowed a CGIS agent to hear it.

In support of these allegations, the applicant submitted another page of the report of the CGIS investigation, which stated that the applicant arrived at the [REDACTED] barracks at about 10:30 p.m. on March 28, 2011. She was crying and told the officer on duty that her husband was "being a jerk" and "needed to get away." They had been having dinner with another couple, including a member of the [REDACTED] staff, when her husband "started making fun of the Coast Guard and berating her in front of the couple." "[A]t some point she threw her wedding ring" at him. The officer on duty reported that about five minutes later, the applicant's husband entered, slamming the door against the wall, and said he needed to talk to his wife. When asked to leave, the husband stepped out into the hall, and the applicant said, "this only happens when he gets

"drunk." The applicant followed her husband [REDACTED] into the hall, where they argued for about ten minutes. When the applicant came back in and said she was returning home with her husband, the officer on duty asked if she wanted to remain overnight in the barracks, but the applicant declined. The investigator's report further stated that while he was interviewing the officer who had been on duty, she received a voicemail from [REDACTED] and him to hear it. The voicemail consisted of the applicant screaming at the officer, "stating she should not be telling lies to the Command about her and her husband and that she would never trust [the officer] or anyone [REDACTED]."

In May 2011, instructions for evaluating officers were contained in Article 10.A. of the Personnel Manual (PSMAN), COMDTINST M1000.6A (Change 42).

Article 10.A.1.b of the Personnel Manual states, "Commanding Officers must ensure accurate, fair, and objective evaluations are provided for officers under their command." Further, "performance evaluation forms have been made as objective as possible, within the scope of jobs and tasks performed by officers. In using the Officer Evaluation Form, CG-5310 (series), strict and conscientious adherence to specific wording of the standards is essential to realizing the purpose of the evaluation system."

le 10.A.3.c.1.a. of the Personnel Manual states, “[i]f [redacted] (other than relief for cause as prescribed by Article 4 E.6) and early transfer from unit is required, a special OER is required before the Reported-on [redacted] OER [redacted] commenting removal from primary duties is derogatory and must be submitted in accordance with Article 10.A.4.h. In both cases, the OER counts for continuity.” [redacted]

Article 10.A.4.h.1 of the Personnel Manual defines derogatory reports as "OERs that indicate [redacted] reported on Officer has failed in the accomplishment of assigned duties, including those that "[d]ocument[] adverse performance or conduct which results in the removal of a member from his or her primary duty or position." When an OER is "derogatory," the officer may prepare an addendum "to explain the failure or provide [the officer's own] views of the performance in question." The addendum and the rating chain's endorsements to it become a part of the OER.

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552.
2. Under 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22, an application to the Board must be filed within three years after the applicant discovers the alleged error or injustice. While the alleged error or injustice occurred in 2011, the applicant claimed that she did not discover the

error until October 23, 2013. Although the Board finds that she knew of the alleged error she wants expunged—the disputed OER—in June 2011 and did not file her application until July 2014, her application is considered timely because she has continued to serve on active duty in the interim.³

3. The applicant alleged that the Special OER was erroneous and unjust because it was only initiated as a result of “an uncomfortable work environment” created by her colleagues’ concern that she was being subjected to domestic violence. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed OER in the applicant’s military record is correct and fair, and the applicant bears the burden of proving by a preponderance of the evidence that the OER is erroneous or unjust.⁴ Absent specific evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties “correctly, lawfully, and in good faith.”⁵ To be entitled to relief, the applicant cannot “merely allege or prove that an [OER] seems inaccurate, incomplete or subjective in some sense,” but must prove that the disputed OER was adversely affected by a “misstatement of significant hard fact,” factors “which had no business being in the rating process,” or a prejudicial violation of a statute or regulation.⁶

4. The record shows that on March 24 (or 28⁷), 2011, the applicant argued with her husband over dinner with a colleague present, threw her wedding ring at him, and sought the “safe haven” of the office to prevent the argument from continuing or escalating. When the command initiated an investigation, the applicant left a screaming voicemail message accusing the officer who had been on duty of lying, and accusing the officer and all of [REDACTED] of being untrustworthy. The CGIS agent naturally interviewed the colleagues involved, and the applicant subsequently felt ostracized because she was not invited to certain social events. She stated that on or about April 30, 2011, this situation “culminated” in her posting the comment on Facebook, “Why does everyone hate me,” which she contrarily argued should not have been interpreted to include her [REDACTED] colleagues. An [REDACTED] colleague with access to her Facebook page reported her post(s) to the command. The command initiated her removal soon after learning about the post(s), and under Article 10.A.3.c.1.a. of the Personnel Manual, removing an officer from his or her primary duties requires a Special OER.

5. The applicant alleged that she unjustly received the Special OER only because she was being transferred, and the negative workplace climate that caused her transfer was directed at her, instead of being caused by her, as indicated in the OER. Moreover, she alleged, the negative feeling was directed at her only because she had wisely gone to the office to allow an argument she was having with her husband to defuse and then screamed at an officer she thought of

³ *Detweiler v. Pena*, 38 F.3d 591, 598 (D.C. Cir. 1994) (holding that, under § 205 of the Soldiers’ and Sailors’ Civil Relief Act of 1940, the BCMR’s three-year limitations period under 10 U.S.C. § 1552(b) is tolled during a member’s active duty service).

⁴ 33 C.F.R. § 52.24(b).

⁵ *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

⁶ *Hary v. United States*, 618 F.2d 704, 708 (Ct. Cl. 1980), cited in *Lindsay v. United States*, 295 F.3d 1252, 1259 (Fed. Cir. 2002).

⁷ The date of the incident is reported differently in the record.

as a friend in a voicemail because she felt betrayed. The applicant's rating chain, however, has stated that the marks and comments are accurate and are based on the applicant's own conduct during the reporting period, including her screaming voicemail to another officer and Facebook post(s). Even her supervisor, who recommended removing the OER so that it would not harm her career, stated that the OER was "completed fairly" and did not claim that it was inaccurate with regards to her performance during the reporting period.

6. LTJG S's statement on behalf of the applicant shows that the adverse workplace climate among the [REDACTED] was not apparent to [REDACTED] and did not adversely affect other aspects of the applicant's performance. The Special OER, however, contains many high marks and laudatory comments about these other aspects of her performance. LTJG S's statement, from the perspective of an [REDACTED], supports those high marks but does not rebut the low marks and negative supporting comments about the applicant's judgment in certain circumstances and her impact on the workplace climate among the [REDACTED] which a [REDACTED] would not likely witness.

7. It is clear to the Board that the applicant faced very trying circumstances during the reporting period covered by the Special OER, but she has not shown that she was not substantially responsible for the negative workplace climate among the [REDACTED], as her rating chain concluded. Nor has she proven by a preponderance of the evidence that her command committed error or injustice in deciding to remove her from the [REDACTED]. Because of her removal from her primary duties, the Special OER was required by Article 10.A.3.c.1.a. of the Personnel Manual, and she has not shown that that this OER was adversely affected by a "misstatement of significant hard fact," factors "which had no business being in the rating process," or a prejudicial violation of a statute or regulation.⁸

8. The Board finds insufficient grounds for removing the disputed OER with its addendum from the applicant's record. Accordingly, her request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

⁸ *Hary v. United States*, 618 F.2d 704, 708 (Ct. Cl. 1980), cited in *Lindsay v. United States*, 295 F.3d 1252, 1259 (Fed. Cir. 2002).

ORDER

The application of [REDACTED] USCG, for correction of her military record is denied.

March 27, 2015

