

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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2017-079



FINAL DECISION

This proceeding was conducted according to the provisions of section 10 U.S.C. § 1552 and 14 U.S.C. § 425. After receiving the applicant's completed application on February 1, 2017, the Chair docketed the case and prepared the decision for the Board as required by 33 C.F.R. § 52.61(c).

This final decision, dated September 22, 2017, 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, a  asked the Board to correct her record by—

- Removing three CG-3307s ("Page 7s")¹ dated January 14, 2015, April 15, 2015, and June 8, 2015, which document, respectively, her placement on weight probation due to non-compliance with the Coast Guard's weight standards, the extension of her probationary period, and her failure to comply with the standards at the end of the probationary period;
- Raising the low mark of 3 she received in the performance category "Health and Well-Being" on her Officer Evaluation Report (OER) dated January 31, 2015, to a high mark of 6²

¹ An Administrative Remarks record entry, form CG-3307, known as a "Page 7," is used to document a member's notification of important information, achievements, or counseling about positive or negative aspects of a member's performance in the member's military record.

² On an OER form, CG-5310A, officers are rated in 18 performance categories on a scale of 1 (worst) to 7 (best). A mark of 3 in the "Health and Well-Being" category means that the officer did not meet all of the requirements for a "standard" mark of 4, one of which is maintaining the weight standards. A mark of 6 means that the officer showed "[r]emarkable vitality, enthusiasm, alertness, and energy. Consistently contributed at high levels and actively followed a comprehensive fitness program. Optimized personal performance through involvement in activities which supported physical and emotional well-being. Monitored and helped others deal with stress, enhance health and well-being. Demonstrated a significant commitment towards safety of personnel."

and removing the underlined portion of the following supporting comments (“Inspirational wellness standards: tobacco free, encouraged crew cessation, participated semiweekly crew workouts, planned monthly crew sporting events and followed rigorous personal fitness regime; routinely served as designated driver, ensured crew safety. Despite exercise & strict diet, failed to comply w/ COMDT weight standards following expiration of abeyance, remains non-compliant.”);

- Raising the mark of 3 she received for “Health and Well-Being” on her OER dated June 9, 2015, to a mark of 6, and removing the underlined portion of the following supporting comments (“Personal fitness routine set standard for crew; daily workouts included running, rowing, weight training; monthly fitness tests reveal outstanding cardio & strength levels. Despite rigorous exercise regimen, strict diet & determined effort, failed to comply w/ CG weight standards, remains non-compliant; abeyance requested.”);
- Directing the Coast Guard to convene a Special Selection Board (SSB) pursuant to 14 U.S.C. § 263 to consider whether she should have been selected for promotion in September 2016; and
- If selected for promotion by the SSB, expunging her 2016 non-selection, backdating her date of rank to what it would have been had she been selected for promotion in September 2016, and awarding her corresponding back pay and allowances.

The applicant explained that in 2013 and 2014, she failed the weight standards and received the Page 7s and a low mark of 3 for “Health and Well-Being” on her OER dated March 31, 2014. Shortly thereafter, however, she was diagnosed with Hashimoto’s disease, thyroid cancer, and polycystic ovarian syndrome—all three of which cause uncontrollable weight gain. Therefore, she was granted a six-month medical abeyance of the weight standards, as provided in the Weight and Body Fat Standards Program Manual, COMDTINST M1020.8, on June 27, 2014. The applicant then applied to the Coast Guard’s Personnel Records Review Board (PRRB), for correction of her 2014 OER and removal of the Page 7s, and the PRRB granted that relief and recommended that the BCMR grant further relief regarding the applicant’s non-selection for promotion in June 2014. On November 20, 2015, in the decision for BCMR Docket No. 2015-019, the Board granted relief by expunging her non-selection for promotion from ensign to LTJG in June 2014 and backdating LTJG her date of rank to whatever it would have been if she had been selected for promotion in June 2014.

The applicant stated that she had part of her thyroid surgically removed in July 2014. Because she was assigned to a cutter homeported in Alaska, she had to refill her prescriptions to replace her thyroid hormones whenever the cutter visited Anchorage. She stated that her medical care during this period was very disjointed because, due to various assignments, she saw five endocrinologists and two surgeons in Los Angeles, Anchorage, and Atlanta, as well as two doctors in the small town where her cutter homeported. However, after her abeyance ended in December 2014, she was again placed on weight probation and received the three Page 7s disputed in this case, as well as the low marks of 3 and supporting comments on her January 2015 and June 2015 OERs. The applicant stated that her command tried to get her abeyance extended, but they were told that no abeyance could last for more than six months and that a second abeyance could not be granted for the same condition.

The applicant stated that throughout her weight probationary period in 2015, she followed a strict diet and maintained a rigorous exercise regimen, exercising five or six days per week. In addition, she organized a fitness challenge among the crew that resulted in other crewmembers losing a total of 280 pounds. However, none of her own efforts produced a discernable weight loss, even though she was very fit and placed second in the fitness challenge.

The applicant stated that on April 8, 2015, a new mass was discovered near her thyroid bed during a long-overdue post-operative ultrasound. Therefore, her weight probationary period was extended for thirty days. In May 2015, the mass was removed. It was a skin tumor “that was thought to be a recurrence of the thyroid cancer.” The applicant stated that her command again formally requested a medical abeyance, but the request was denied.

The applicant stated that in June 2015, she was transferred to a different Coast Guard district so that she could receive more consistent care. She argued that this transfer, which is normally disallowed for members on weight probation, shows that the Coast Guard recognized that her disjointed medical care had contributed to her weight gain. The applicant stated that after her transfer, she received consistent care and was finally able to lose weight again, even though she did not change either her diet or her exercise regimen. By October 2015, she had met her maximum allowed body fat percentage, and by April 2016, she weighed ten pounds less than her maximum allowed weight. The applicant stated that it was not until February 2016 that she was finally able to complete her treatment for thyroid cancer by receiving radioactive iodine.

The applicant stated that in September 2016, she was non-selected for promotion to lieutenant, presumably due to the disputed Page 7s and low marks of 3 on her January 2015 and June 2015 OERs. She stated that her non-selection was unjust because her failure to meet the weight and body fat standards in 2015 resulted from the inconsistent and incomplete medical care she had received while assigned to a cutter homeported in a small town in Alaska.

The applicant submitted statements and emails strongly supporting her request:

- The Commanding Officer (CO) of the cutter stated that the applicant’s medical condition was very complex and complicated by her assignment to a remote location. The CO stated that he routinely witnessed her diet and exercise regimen, which “greatly exceeded expectations” to no avail. The CO stated that the low marks of 3 he assigned on the disputed OERs should be raised. He noted that she coordinated a fitness challenge in 2015 that resulted in the crew’s cumulative loss of 280 pounds and 99% compliance with the weight standards. He stated that if the applicant had not been deemed non-compliant with the weight standards, she would have received a mark of 6 for “Health and Well-Being” on her January 2015 OER and a mark of 7 for that category on her June 2015 OER.
- The Executive Officer (XO) of the cutter stated that in numerous conversations with Headquarters personnel he was told that the applicant’s abeyance could not be extended or reissued, but he strongly believes that her circumstances justified an extended abeyance. The XO stated that the remote location of the cutter’s homeport complicated her medical care, including her initial diagnosis, treatment, surgery, and recovery. Therefore, the command strongly endorsed her transfer to another district.

- The District Commander stated that the applicant records show that her medical conditions directly contributed to her inability to maintain the weight standards. He stated that after transferring to the District and completing a course of treatment, she quickly met the standards. He stated that her weight abeyance period should have been extended to allow adequate time for her condition to stabilize.

VIEWS OF THE COAST GUARD

On July 6, 2017, the Judge Advocate General (JAG) of the Coast Guard submitted an advisory opinion recommending that the Board grant relief in this case because “it is more likely than not that her inability to lose weight after the expiration of her medical abeyance was due to an underlying medical condition rather than through any fault of her own.” In this regard, the JAG stated that the applicant’s medical conditions were very complex, known to cause weight gain, and expressly warrant an abeyance of the weight standards under Coast Guard policy. The JAG stated that the preponderance of the evidence shows that the medical abeyance should have been extended and that the refusal to grant the command’s request for another abeyance in May 2015 was erroneous.

The JAG argued that even if the Personnel Service Center had the discretion to deny the second request for an abeyance, the result in this case would be erroneous and unjust because the purpose of an abeyance is “to avoid penalizing a member who may be non-compliant due to medical conditions/medications.” The JAG stated that the fact that the applicant quickly came into compliance as soon as she had access to adequate medical facilities is strong evidence that her underlying medical conditions were causing her weight gain, especially given the evidence from her command regarding her very strict diet and exercise regimen.

The JAG noted that the Board previously found that documented non-compliance with the weight standards is generally considered to be detrimental to promotion competitiveness. The JAG therefore recommended that the Board grant all requested relief.

APPLICANT’S RESPONSE TO THE VIEWS OF THE COAST GUARD

On July 24, 2017, the BCMR sent the applicant a copy of the Coast Guard’s views and invited her to respond within thirty days. No response was received.

APPLICABLE LAW AND POLICY

Weight Policies

COMDTINST M1020.8H (series) provides the Coast Guard’s weight and fitness standards and regulations. Article 2.D.1. states that all military personnel will be weighed each October and April, but COs may screen members against standards any time they deem it necessary. Under Article 3.A., members who are non-compliant with the weight standards may not be promoted or transferred to another unit. Article 3.B. requires non-compliance to be documented on a Page 7 in the member’s record. Article 3.D. states that for a non-compliant member, a weight-probationary period begins immediately unless the person is ineligible—for example, by being

35 pounds or more overweight or being non-compliant for a third time within fourteen months. The probationary period may not exceed eight months or thirty-five weeks.

Article 5.A.2. states that the Coast Guard may authorize medical abeyances of the weight standards for physiological conditions that cause weight gain “to avoid penalizing a member who may be non-compliant due to medical conditions/medications that directly contribute to weight gain. Injuries or illnesses that interfere with a member’s ability to exercise are not grounds for a medical abeyance.” The examples of such qualifying medical conditions provided in Article 5.A.3. are polycystic ovarian syndrome, hypothyroidism, and prescribed corticosteroids.

Article 5.A.5. states that “[i]f a medical abeyance is approved, CG PSC-psd will grant an adequate period of time to allow the member’s specific medical condition to be effectively stabilized. During this period, members who exceed standards will be considered compliant.” Article 5.A.7. states, “On a case-by-case basis, CG PSC-psd may grant an extension to a medical abeyance if circumstances warrant. Commands requesting an extension must contact CG PSC-psd prior to the end of their medical abeyance period.”

Article 5.A.7.g. of COMDTINST M1000.3A provides that officers who are found to be “non-compliant with weight and body fat standards shall have this documented in their performance evaluation.” Article 2.F.2.d. of the OER Manual, COMDTINST M1611.1A, states that for each numerical mark assigned, the Reporting Officer should include “comments citing specific aspects of the Reported-on Officer’s performance and behavior that deviates from a four,” and Article 2.F.2.f. states that “[t]hose assigned the superlative mark of seven should have specific comments demonstrating how they exceeded the six block standard.”

Special Selection Board Law and Policies

The Coast Guard SSB statute at 14 U.S.C. § 263 was enacted in Public Law 1120213, Title II, § 208(a), on December 20, 2012, and states the following:

(b) Officers considered but not selected; material error.--

(1) In general.--In the case of an officer or former officer who was eligible for promotion, was considered for selection for promotion by a selection board convened under section 251, and was not selected for promotion by that board, the Secretary may convene a special selection board to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that--

(A) an action of the selection board that considered the officer or former officer--

(i) was contrary to law in a matter material to the decision of the board; or

(ii) involved material error of fact or material administrative error; or

(B) the selection board that considered the officer or former officer did not have before it for consideration material information.

(2) Effect of failure to recommend for promotion.--If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer, whose grade is that of commander or below and whose name was referred to that board for consideration, the officer or former officer shall be considered--

(A) to have failed of selection for promotion with respect to the board that considered the officer or former officer prior to the consideration of the special selection board; and

(B) to incur no additional failure of selection for promotion as a result of the action of the special selection board.

(c) Requirements for special selection boards.--Each special selection board convened under this section shall--

(1) be composed in accordance with section 252 and the members of the board shall be required to swear the oaths described in section 254;

(2) consider the record of an applicable officer or former officer as that record, if corrected, would have appeared to the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board and that record shall be compared with a sampling of the records of--

(A) those officers of the same grade who were recommended for promotion by such prior selection board; and

(B) those officers of the same grade who were not recommended for promotion by such prior selection board; and

(3) submit to the Secretary a written report in a manner consistent with sections 260 and 261.

(d) Appointment of officers recommended for promotion.--

(1) In general.--An officer or former officer whose name is placed on a promotion list as a result of the recommendation of a special selection board convened under this section shall be appointed, as soon as practicable, to the next higher grade in accordance with the law and policies that would have been applicable to the officer or former officer had the officer or former officer been recommended for promotion by the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board.

(2) Effect.--An officer or former officer who is promoted to the next higher grade as a result of the recommendation of a special selection board convened under this section shall have, upon such promotion, the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the active duty promotion list as the officer or former officer would have had if the officer or former officer had been recommended for promotion to that grade by the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board.

(3) Record correction.--If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer not eligible for promotion or a former officer whose name was referred to the board for consideration, the Secretary may act under section 1552 of title 10 to correct the military record of the officer or former officer to correct an error or remove an injustice resulting from the officer or former officer not being selected for promotion by the selection board that should have considered or did consider the officer or former officer prior to the consideration of the special selection board.

ALCOAST 090/16, issued on March 14, 2016, announced the Coast Guard's publication of regulations for SSBs in Article 6.B.13. of COMDTINST M1000.3A. Article 6.B.13.a. states that the purpose of an SSB is to consider for promotion either an officer who was "considered but not selected for promotion to the next higher grade because of a material error in their record," or an officer who was "not considered and not selected for promotion to the next higher grade because of an administrative error." Article 6.B.13.e. states the following:

SSBs may be convened pursuant to 14 U.S.C. § 263 to consider or reconsider commissioned officers or former commissioned officers for promotion when one or more of the following occur:

(1) An officer was not considered from in or above the promotion zone by a regularly scheduled selection board because of administrative error.

(2) The Secretary determines that a selection board that considered an officer from in or above the promotion zone acted contrary to law or made a material error.

(3) The selection board that considered an officer from in or above the promotion zone did not have before it some material information required to be presented to the board by Coast Guard policy.

- (4) The Coast Guard Board for Correction of Military Records (CG BCMR) or a federal court directs a SSB be convened.

Article 6.B.13.j. states that an SSB considers the record of an officer as it should have appeared (i.e., after correction) with “a weighted sample of records, reflecting the Opportunity of Selection of the prior board to include an appropriate number of records from officers of the same grade who were recommended for promotion by the prior selection board along with an appropriate number of records from those officers of the same grade who were not recommended for promotion by the prior selection board.” Article 6.B.13.n. states that an officer who is selected for promotion by an SSB shall have the same date of rank he or she would have had if selected by the regular selection board.

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 regulations:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application is timely under § 1552(b).

2. The applicant alleged that her non-selection for promotion in 2016 was erroneous and unjust because her record contained low marks and negative comments in two OERs, as well as three Page 7s, indicating that she was non-compliant with the weight standards at a time when she still required treatment for her previously diagnosed Hashimoto's disease, polycystic ovarian syndrome, and thyroid cancer, which prevented her compliance. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in her record, and the applicant bears the burden of proving by a preponderance of the evidence that the disputed information is erroneous or unjust.³

3. The Board agrees with the JAG that the applicant has proven by a preponderance of the evidence that as a result of inconsistent treatment for medical conditions that qualified the applicant for a medical abeyance under Article 5.A. of COMDTINST M1020.8H, the applicant was unable to attain compliance with the weight standards during the term of her medical abeyance, and her abeyance should have been extended. The lack of an extended abeyance constitutes both an error and injustice.⁴

4. Because the applicant's medical abeyance was not extended in 2015 and she did not receive the consistent medical care needed to resolve her conditions until after her transfer to another district, her command was required to place her on weight probation and to enter the dis-

³ 33 C.F.R. § 52.24(b).

⁴ *Reale v. United States*, 208 Ct. Cl. 1010, 1011 (1976) (finding that for the purposes of the BCMRs, “injustice” is “treatment by the military authorities that shocks the sense of justice but is not technically illegal.”; *but see* 41 Op. Att’y Gen. 94 (1952), 1952 WL 2907 (finding that “[t]he words ‘error’ and ‘injustice’ as used in this section do not have a limited or technical meaning and, to be made the basis for remedial action, the ‘error’ or ‘injustice’ need not have been caused by the service involved.”).

puted Page 7s in her record to document her weight probation pursuant to Articles 3.B. and 3.D. of COMDTINST M1020.8H. The command was also required to reflect her non-compliance with the weight standards in the disputed OERs with low marks and supporting comments pursuant to Article 5.A.7.g. of COMDTINST M1000.3A. These adverse consequences of the erroneous and unjust denial of the extension of the medical abeyance should be removed from the applicant's record.

5. To remove the adverse consequences from her record, the Board finds that the Page 7s documenting her weight probation dated January 14, 2015, April 15, 2015, and June 8, 2015, should be removed. To correct her January 2015 and June 2015 OERs, the applicant asked the Board to raise her marks for the performance category "Health and Well-Being" from 3s to 6s and to remove the negative comments. The CO of the cutter, who assigned the marks for "Health and Well-Being" as the applicant's Reporting Officer on her January 2015 and June 2015 OERs, has stated that he would have assigned her a mark of 6 on her January 2015 OER in that category and a mark of 7 on her June 2015 OER. However, pursuant to Article 2.F. of the OER Manual, when a numerical mark on an OER form deviates from the standard mark of 4, the Reporting Officer must add comments to show how the officer's performance exceeded the standards, and a mark of 7 must be supported by comments showing how the officer exceeded the written standard for a mark of 6. Therefore, in raising the applicant's marks, the Board must consider whether they are adequately supported by comments to ensure that the disputed OER is not noticeably erroneous.

6. On an OER form, CG-5310A, a mark of 6 in the "Health and Well-Being" category means that the officer showed "[r]emarkable vitality, enthusiasm, alertness, and energy. Consistently contributed at high levels and actively followed a comprehensive fitness program. Optimized personal performance through involvement in activities which supported physical and emotional well-being. Monitored and helped others deal with stress, enhance health and well-being. Demonstrated a significant commitment towards safety of personnel." The comment on the applicant's January 2015 OER appears to support a mark of 6 as long as the disputed part (underlined below) is removed:

Inspirational wellness standards: tobacco free, encouraged crew cessation, participated semiweekly crew workouts, planned monthly crew sporting events and followed rigorous personal fitness regime; routinely served as designated driver, ensured crew safety. Despite exercise & strict diet, failed to comply w/ COMDT weight standards following expiration of abeyance, remains non-compliant.

The supporting comment on the June 2015 OER, for which the CO recommended a mark of 7, states the following:

Personal fitness routine set standard for crew; daily workouts included running, rowing, weight training; monthly fitness tests reveal outstanding cardio & strength levels. Despite rigorous exercise regimen, strict diet & determined effort, failed to comply w/ CG weight standards, remains non-compliant; abeyance requested.

Because Article 2.F.2.f. of the OER Manual requires marks of 7 to be supported by comments showing how the officer exceeded the standard for a mark of 6, the Board finds that the supporting comment in the June 2015 OER should be amended by removing the disputed (underlined) portion and replacing it with the following language reflecting the CO's own words and explanation as to why he would have assigned her a mark of 7:

Inspirational wellness & fitness leadership resulted in crew's cumulative loss of 280 lbs & 99% compliance w/ weight standards.

7. The applicant alleged that the documentation regarding her non-compliance with the weight standards caused her non-selection for promotion in 2016. The Board agrees with the JAG that it is certainly possible that the erroneous documentation caused her non-selection. Title 14 U.S.C. § 263(b)(1) applies to cases in which a Coast Guard officer was, like the applicant, considered but not selected for promotion. It provides that the Secretary may convene an SSB if the Secretary determines that "(A) an action of the selection board that considered the officer or former officer-- ... (ii) involved material error of fact or material administrative error; or (B) the selection board that considered the officer or former officer did not have before it for consideration material information." The Board finds that the applicant is entitled to an SSB under this statute because her record erroneously and unjustly showed that she had been non-compliant with the weight standards, when she should have been granted an extended abeyance, and because the selection boards were not informed that her CO would have assigned her high marks of 6 and 7 in the category "Health and Well-Being" on the disputed OERs had she been properly granted a medical abeyance. Therefore, the Board should direct the Coast Guard to correct her record as described above and convene an SSB to reconsider her non-selection by the LT selection board that convened in September 2016 (known as the promotion year (PY) 2017 LT selection board). If she is selected for promotion by that SSB, the applicant's LT date of rank should be corrected to what it would have been had she been selected for promotion in 2016 by the PY 2017 LT selection board, and she should receive back pay and allowances.

8. The Board notes that while this case was pending, the applicant was considered for promotion a second time in 2017 while the disputed, erroneous documentation was still in her record. Therefore, if she was not selected for promotion in 2017 by the PY 2018 LT selection board *and* if the SSB convened to reconsider her non-selection by the PY 2017 LT selection board does not select her for promotion, the Coast Guard should convene an SSB to reconsider her non-selection for promotion in 2017 by the PY 2018 LT selection board and, if she is selected for promotion by this second SSB, her LT date of rank should be corrected to what it would have been had she been selected for promotion in 2017 by the PY 2018 LT selection board, and she should receive back pay and allowances.

9. Accordingly, the Board finds that the following relief should be granted:

- a. The Coast Guard should remove from her records the three CG-3307s dated January 14, 2015, April 15, 2015, and June 8, 2015, which document, respectively, her placement on weight probation due to non-compliance with the Coast Guard's weight standards, the extension of her probationary period, and her failure to comply with the standards at the end of the probationary period.

- b. The Coast Guard should correct her OER dated January 31, 2015, by raising the mark of 3 in the performance category “Health and Well-Being” to a mark of 6 and by removing the following comment: “Despite exercise & strict diet, failed to comply w/ COMDT weight standards following expiration of abeyance, remains non-compliant.”
- c. The Coast Guard should correct her OER dated June 9, 2015, by raising the mark of 3 in the performance category “Health and Well-Being” to a mark of 7; by removing the comment “Despite rigorous exercise regimen, strict diet & determined effort, failed to comply w/ CG weight standards, remains non-compliant; abeyance requested.”; and by replacing that comment with this one: “Inspirational wellness & fitness leadership resulted in crew’s cumulative loss of 280 lbs & 99% compliance w/ weight standards.”
- d. After making the above corrections, the Coast Guard should convene a Special Selection Board in accordance with 14 U.S.C. § 263 and Article 6.B.13. of COMDTINST M1000.3A to reconsider the applicant’s non-selection by the PY 2017 LT selection board in 2016. If she is selected for promotion by that SSB, her non-selection in 2016 by the PY 2017 LT selection board should be removed from her record, her LT date of rank should be corrected to what it would have been had she been selected for promotion in 2016, and she should receive back pay and allowances.
- e. If the applicant was not selected for promotion in 2017 by the PY 2018 LT selection board *and* if the SSB convened pursuant to paragraph d, above, to reconsider her non-selection by the PY 2017 LT selection board does not select her for promotion, the Coast Guard should convene an SSB to reconsider her non-selection for promotion in 2017 by the PY 2018 LT selection board and, if she is selected for promotion by this second SSB, her non-selection in 2017 by the PY 2018 LT selection board should be removed from her record, her LT date of rank should be corrected to what it would have been had she been selected for promotion in 2017, and she should receive back pay and allowances.

(ORDER AND SIGNATURES ON NEXT PAGE)

ORDER

The application of [REDACTED], for correction of her military record is granted as follows:

- a. The Coast Guard shall remove from her records the three CG-3307s dated January 14, 2015, April 15, 2015, and June 8, 2015, documenting her weight probationary period.
- b. The Coast Guard shall correct her OER dated January 31, 2015, by raising the mark of 3 in the performance category "Health and Well-Being" to a mark of 6 and by removing the following comment: "Despite exercise & strict diet, failed to comply w/ COMDT weight standards following expiration of abeyance, remains non-compliant."
- c. The Coast Guard shall correct her OER dated June 9, 2015, by raising the mark of 3 in the performance category "Health and Well-Being" to a mark of 7; by removing the comment "Despite rigorous exercise regimen, strict diet & determined effort, failed to comply w/ CG weight standards, remains non-compliant; abeyance requested."; and by replacing that comment with this one: "Inspirational wellness & fitness leadership resulted in crew's cumulative loss of 280 lbs & 99% compliance w/ weight standards."
- d. After making the above corrections, the Coast Guard shall convene a Special Selection Board to reconsider her non-selection by the PY 2017 LT selection board in 2016. If she is selected for promotion by the SSB, her 2016 non-selection for promotion shall be removed from her record, her LT date of rank shall be corrected to what it would have been had she been selected for promotion in 2016, and she shall receive back pay and allowances.
- e. If she was not selected for promotion in 2017 by the PY 2018 LT selection board *and* if the SSB convened pursuant to paragraph d, above, does not select her for promotion, the Coast Guard shall convene a second SSB to reconsider her non-selection for promotion in 2017 by the PY 2018 LT selection board. If she is selected for promotion by this second SSB, her 2017 non-selection for promotion shall be removed from her record, her LT date of rank shall be corrected to what it would have been had she been selected for promotion by the PY 2018 LT selection board, and she shall receive back pay and allowances.

September 22, 2017

