



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 6619-02  
4 September 2002

LTCC [REDACTED] USMC  
[REDACTED]  
[REDACTED]

Dear Colonel [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 August 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 18 July 2002, and the advisory opinion from the HQMC Officer Assignment Branch, Personnel Management Division, dated 18 July 2002, copies of which are attached. They also considered your rebuttal letter dated 26 August 2002.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish probable material error or injustice.

The Board substantially concurred with the comments contained in the report of the PERB in finding that the contested section K (reviewing officer (RO) marks and comments) of the fitness report for 1 June 2000 to 31 May 2001 should stand. They did not consider the comment "Abilities commensurate with rank and longevity" to be vague or confusing, nor did they find it to be adverse. They found no requirement that the section K at issue include substantiation for this comment. They were unable to find the relationship between the RO and the reporting senior (RS) influenced the RO comments on your fitness report. They found no inconsistency between the section K at issue and the RO's having endorsed you for a Meritorious Service Medal. Finally, they found no requirement for the RO to comment expressly on your qualification for promotion; but they noted he expressed no disagreement with the RS comment, in section I of the fitness report in question, that you were "Completely qualified for promotion."

Since the Board found no defect in your performance record, they had no basis to strike your failure of selection by the Fiscal Year 2003 Colonel Selection Board.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosures



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

6619-02

IN REPLY REFER TO:

1610  
MMER/PERB  
JUL 18 2002

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
LIEUTENANT COLONEL [REDACTED]  
[REDACTED] USMC

Ref: (a) LtCol [REDACTED]'s DD Form 149 of 3 Jan 02  
(b) MCO P1610.7E w/Ch 1-2

Encl: (1) CMC Advisory Opinion 1610 MMOA-4 of 18 Jul 02

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 10 July 2002 to consider Lieutenant Colonel [REDACTED]'s petition contained in reference (a). Removal of Section K on the fitness report for the period 000601 to 010531 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends the Reviewing Officer was "overcome with too many operational and administrative commitments" to render a fair and meaningful assessment. It is his position that the inaccuracy of the report lies in the Reviewing Officer's mark of "sufficient" in Item K1, especially since the petitioner had never seen or had any contact with [REDACTED] the entire 12-month period. Finally, the petitioner believes the final sentence in Section K4 is "vague and confusing" and that it's validity is further questioned when comparing the Reviewing Officer's comments on the immediately preceding performance evaluation (also by M [REDACTED]). To support his appeal, the petitioner furnishes his own detailed statement and a letter from the Reporting Senior of record (Colonel [REDACTED]).

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Major [REDACTED] reviewed the petitioner's prior 12-month report, marked that appraisal "sufficient" in Item K1,

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
LIEUTENANT COLONEL [REDACTED]  
[REDACTED] USMC

and offered positive review comments. Subparagraph 4014.2a(1) of reference (b) pertains to Item K1 and states as follows: There are no hard guidelines on what constitutes sufficient knowledge and observation." The petitioner does not challenge that mark on the prior report and there is no presumption that Major General [REDACTED]'s mark of "sufficient" on the challenged fitness report is any less valid. Further, the petitioner fails to substantiate that Major General [REDACTED] had a different degree of observation between the two evaluations. Personal face-to-face contact is not necessary to forge a valid review assessment, since many other forums of information are available to judge how the person being evaluated executes their performance responsibilities.

b. If Major General [REDACTED]'s review on the fitness report at issue is a mistake, then he is the best one to acknowledge and correct that error. There is no such declaration.

c. Regardless of the opinion preferred by Col [REDACTED] in his advocacy letter, he does not speak for Major General [REDACTED]. The Board finds it incongruent that major General [REDACTED]'s review of the previous report is presumably based on a valid observation, yet challenged in the one under consideration.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the Reviewing Officer's action on the contested fitness report should remain a part of Lieutenant Colonel [REDACTED]'s official military record.

5. The enclosure is furnished to assist in adjudicating Lieutenant Colonel [REDACTED]'s request to remove his failure of selection.

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF  
LIEUTENANT COLONEL [REDACTED]  
[REDACTED] USMC

6. The case is forwarded for final action.

[REDACTED]

Colonel, U.S. Marine Corps  
Deputy Director  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

CG19-02

IN REPLY REFER TO:

1600  
MMAA-4  
18 Jul 02

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR PETITION FOR LIEUTENANT COLONEL [REDACTED]  
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of  
Lieutenant Colonel [REDACTED]  
[REDACTED] USMC of 21 Jul 02.

1. Recommend approval of Lieutenant Colonel [REDACTED]  
request for removal of his failure of selection only if the  
report from 000601 to 010531 is removed from his record.

2. Per the reference, we reviewed Lieutenant Colonel [REDACTED]  
record and petition. Lieutenant Colonel [REDACTED] failed  
selection on the FY03 USMC Colonel Selection Board. Lieutenant  
Colonel [REDACTED] requests removal of the Annual report from  
000601 to 010531 and removal of his failure of selection.

3. In our opinion, the petitioned report contains competitive  
concerns that may have contributed to the failure of selection.  
But with the petitioned report removed, Lieutenant Colonel  
[REDACTED] record would still contain considerable  
competitive jeopardy in the following areas:

a. **Command Time.** Lieutenant Colonel [REDACTED] record  
lacks command time as a Lieutenant Colonel. Unlike the majority  
of his peers selected by the board, Lieutenant Colonel  
[REDACTED] has not commanded as a Lieutenant Colonel.

b. **Reviewing Officer Comparative Assessment.** After the  
removal of the report, Lieutenant Colonel [REDACTED]  
Reviewing Officer Comparative Assessments remain below his  
peers. [REDACTED] marks him in the 3 block with zero marked  
below him and 5 marked above him. [REDACTED] marks him in the  
3 block with marked zero below him and 42 marked above him.

c. **Comments on the Previous Report.** The comments on the  
report prior to the petitioned report are a competitive concern.  
When compared to the comments received by his peers being  
selected for promotion, "Rapidly learning the procedures,  
practices, and policies of the recruiting environment, he is  
continually improving his value to the District" and "has

ENCL (1)

Subj: BCNR PETITION FOR LIEUTENANT COLONEL [REDACTED] USMC

steadily performed his demanding recruiting duties in a competent manner" remain a competitive concern.

4. In summary, the petitioned report contains competitive concerns that may have contributed to the failure of selection. Removal of the petitioned report would increase the competitiveness of Lieutenant Colonel [REDACTED] record. Though we recognize his record contains other areas of competitive concern, we believe Lieutenant Colonel [REDACTED] should be afforded the benefit of the doubt and recommend approval of his request for removal of the failure of selection if the report from 000601 to 010531 is removed from his record.

5. POC [REDACTED] at [REDACTED]

[REDACTED]

Colonel, USMC  
Head, Officer Assignments Branch  
Personnel Management Division

ENCLOSURE