



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

JSR

Docket No: NR8499-13

2 April 2015

Dear [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.

You requested removing the fitness report for 14 February to 10 June 2011 and your two rebuttals, each dated 8 June 2011, to the service record page 11 ("Administrative Remarks (1070)") entries dated 25 May and 1 June 2011, respectively. You also impliedly requested removing your failures of selection by the Fiscal Year 2013 and 2014 Lieutenant Colonel Selection Boards and setting aside your retirement on 1 June 2013 by reason of your having twice failed of selection for promotion.

It is noted that the Commandant of the Marine Corps (CMC) has directed removing the contested fitness report.

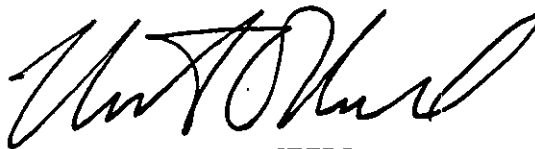
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 April 2015. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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, dated 9 September 2013, the advisory opinion from HQMC dated 16 April 2014 with enclosure, and the

e-mail from HQMC dated 29 January 2015, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board found that the contested rebuttals should stand, as the page 11 entries to which they relate are in your Official Military Personnel File. The Board further found that neither of your failures of selection for promotion should be removed. In this regard, the Board substantially concurred with the advisory opinion in finding your selection by either promotion board would have been definitely unlikely, even if your record had not included the fitness report whose removal CMC later directed. Since the Board found insufficient grounds to remove either of your failures of selection for promotion, it had no basis to set aside action to effect your retirement. In view of the above, your application for relief beyond that effected by CMC 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 evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in this case. 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,



ROBERT J. O'NEILL
Executive Director

Enclosure