

DEPARTMENT OF THE NAVY

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

> Docket No: 7343-19 Ref: Signature Date

Dear

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 15 October 2020. The names and votes of the members of the panel will be furnished upon request. 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, relevant portions of your naval record, and applicable statutes, regulations, and policies. The Board also considered the advisory opinion (AO) of 4 February 2020 furnished by the Marine Corps Performance Branch, Officer Promotions (MMPR-1), which was previously provided to you. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to adjust your date of rank (DOR) and lineal control number (LCN) in the grade of captain to the DOR and LCN you would have received if selected by the Fiscal Year (FY) 2018 U.S. Marine Corps Captain Promotion Selection Board, with all associated back pay and allowances. You assert that after your 1 November 2016 Administrative Remarks (Page 11) counseling entry and your FY 2018 and FY 2019 failures of selection (FOSs) to captain were removed from your record, you were selected for promotion. The Board considered your contention that the presence of derogatory material impaired the competitiveness of your naval record and that it was the sole reason for your FOSs incurred by the FY 2018 and FY 2019 U.S. Marine Corps Captain Promotion Selection Boards. You assert that, had the derogatory material not been in your record, you would have been selected by the FY 2018 promotion selection board.

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With regard to your contention that the Page 11 entry was the sole reason for your FOSs, the Board noted that both your FY 2018 and FY 2019 FOSs were removed, and you were considered "above zone not previously considered" (AZNPC) by the FY 2020 U.S. Marine Corps Captain Promotion Selection Board. Officers in this status are considered by the promotion selection board to be in-zone. Not only did you have the benefit of an AZNPC status for the FY 2020 promotion selection board, but also the benefit of two years to improve upon your performance record. The Board also noted that the FY 2020 promotion selection opportunity was 100 percent of the eligible population, including both in-zone and above-the-zone, with a promotion standard of "fully qualified." The Board, therefore, determined that your FY 2020 promotion selection does not substantiate that your Page 11 entry caused your FY 2018 and FY 2019 FOSs.

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 the submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or 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.

