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

[redacted]
Docket No. 10120-24
Ref: Signature Date

[redacted]

Dear [redacted],

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted 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 17 December 2024. 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, as well as the 17 October 2024 advisory opinion (AO) furnished by the Navy Personnel Command (PERS-32). The AO was provided to you on 23 October 2024 and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

Regarding your request for a personal appearance, the Board determined that a personal appearance with or without counsel will not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to modify the fitness report for the reporting period 1 June 2022 to 23 February 2023 by changing your 2.0 performance trait mark for 'Teamwork'. The Board considered your contentions that the fitness report was rated unjustly and has negatively affected your failure to promote to Lieutenant (O-3/LT). You also contend the fitness report was changed to a detachment of individual and marked negatively without proper justification or requirements to show that you were requested and failed to support. You claim that you were not provided with the unit information. You provided that you had a disagreement with the Commanding Officer (CO) via phone call. During the call, the CO became angry and disconnected the call. You called the CO back and had another verbal disagreement with him

related to his lack of respect for disconnecting the call. You also claim the CO sent a non-punitive letter of caution (NPLOC) and stated it would not be permanent.

The Board, however, substantially concurred with the AO and determined that your evaluation report is valid as written and filed according to the applicable Navy Performance Evaluation System Manual (EVALMAN). The Board noted that you received a Detachment of Individual/Regular fitness report with the performance trait for 'Teamwork' marked 2.0. As justification, the Reporting Senior (RS) commented that you had zero command impact and/or involvement during this reporting period, your demeanor and professionalism with the gaining command was subpar, and there were multiple disrespectful exchanges. The Board also noted the emails you provided regarding the RS's attempts to address your performance, conduct, and expectations through a NPLOC and Page 13. The Board found no mention of the NPLOC or Page 13 in the fitness report and your statement supports the RS comment regarding "disrespectful exchanges." The EVALMAN permits the RS to provide specific comments when they are a significant part of the member's duties or when the member displays particularly weak performance. In this regard, the Board determined that your RS acted within his discretionary authority, and provided the required justification for the 2.0 performance trait mark. The Board further determined that the fitness report's impact on your promotion to LT does not constitute a basis for modification. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You also indicate in your application that you are the victim of reprisal. The Board, however, determined that there was insufficient evidence to conclude that your fitness report was submitted as reprisal in violation of 10 U.S.C Section 1034. In making this determination, the Board noted that there was no evidence, other than your statement, that your fitness report was issued as a reprisal action.

You are entitled to have the Board reconsider its decision upon 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.

Sincerely,

1/7/2025

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