



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

BJG
Docket No: 4697-99
6 August 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: LTCOL [REDACTED], USMC [REDACTED];
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 undtd w/attachment
(2) HQMC MMER memo dtd 16 Jul 99 w/enclosure
(3) HQMC RAM-6 memo dtd 15 Jul 99
(4) Memo for record dtd 2 Aug 99
(5) Subject's E-mail dtd 4 Aug 99
(6) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by removing the reviewing officer's certification from his fitness report for 5 April 1989 to 31 January 1990, and his entire fitness report for 1 February to 16 November 1990, copies of which are at Tabs A and B respectively. As shown in enclosure (2), the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) has directed the requested fitness report relief. He further requested removal of his failure by the Fiscal Year (FY) 1999 Reserve Lieutenant Colonel Selection Board. Finally, he requested that his record be corrected to show the lineal position, date of rank, and effective date in the grade of lieutenant colonel he would have been assigned had he been selected by the FY 1999 Reserve Lieutenant Colonel Selection Board, vice the FY 2000 Reserve Lieutenant Colonel Selection Board. He specifically requested a date of rank and effective date of 1 November 1998.

2. The Board, consisting of Ms. Davies and Messrs. McCulloch and Molzahn, reviewed Petitioner's allegations of error and injustice on 5 August 1999, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. On 15 April 1999, after the FY 2000 Reserve Lieutenant Colonel Selection Board had convened on 13 April 1999, the PERB advised Petitioner that his record would be corrected. He appeared before the FY 2000 Selection Board in the status of having previously failed, but he was selected for promotion. He was promoted to lieutenant colonel with a date of rank and effective date of 1 May 1999.

c. In correspondence attached as enclosure (3), the HQMC Reserve Affairs Retention (RAM-6) has commented to the effect that Petitioner's then implied request for backdating has merit and warrants favorable action. This advisory opinion also impliedly recommends removing his failure of selection.

d. In a memorandum for the record attached as enclosure (4), the HQMC Promotion Branch (MMPR) has advised that had Petitioner been selected by the FY 1999 Reserve Lieutenant Colonel Selection Board, he would have received a date of rank and effective date of 1 November 1998.

e. By enclosure (5), Petitioner advised a member of the Board's staff that he was amending his request to include backdating of his lieutenant colonel date of rank and effective date to reflect selection by the FY 1999 Reserve Lieutenant Colonel Selection Board.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (3) and (4), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing his failure by the FY 1999 Reserve Lieutenant Colonel Selection Board.

b. That Petitioner's naval record be further corrected, where appropriate, to show his date of rank and effective date in the grade of lieutenant colonel as 1 November 1998; and that his lineal precedence be adjusted accordingly.

c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder

Jonathan S. Ruskin
JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

W. Dean Pfeiffer
W. DEAN PFEIFFER
Executive Director

4697-99



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

IN REPLY REFER TO:

1610
MMER
16 Jul 99

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

Subj: BCNR APPLICATION IN THE CASE OF LIEUTENANT COLONEL [REDACTED]
D. [REDACTED] USMCR

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 15 Apr 99
(2) CMC Advisory Opinion 1040 RAM-6 of 15 Jul 99

1. As evidenced by enclosure (1), PERB removed from Lieutenant Colonel [REDACTED] official military record, the fitness report for the period 900201 to 901116 (CD). Also expunged was the Reviewing Officer's Certification from the fitness report for the period 890405 to 900131 (AR).

2. We defer to BCNR on the issue of removal of failure of selection/backdating promotion. Enclosure (2) is furnished to assist in resolving these matters.

[REDACTED]

Head, Performance Evaluation
Review Branch
Personnel Management Division
By direction of the Commandant
of the Marine Corps

1610
MMER/PERB
APR 15 1991

From: Commandant of the Marine Corps
To: Major [REDACTED]

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
18 Mar 91	[REDACTED]	900201 to 901116 (CD)

2. In addition, the Board has directed that the entire Reviewing Officer's Certification will be removed from the fitness report identified below:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
10 Mar 90	[REDACTED]	890405 to 900131 (AR)

3. There will be inserted in your Naval record, in place of the removed report and Reviewing Officer's Certification, appropriately worded memoranda indicating that the material has been removed by direction of the Commandant of the Marine Corps and may not be made available to selection boards and other reviewing authorities, and that such boards may not conjecture or draw any inference as to the nature of the removed material unless it is recorded elsewhere in your official record. Finally, the Automated Fitness Report System (the database which generates your Master Brief Sheet) will be modified as appropriate, to include eliminating any indication of Reviewing Officer non-concurrence in the fitness report for the period 890405 to 900131.

D. J. CHRISTIANSEN
By direction



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

4697-99

IN REPLY REFER TO:

1040
RAM-6
15 July 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS RESERVE AFFAIRS (RA) ADVISORY OPINION ON BCNR
APPLICATION IN THE CASE OF LT COL [REDACTED]
[REDACTED] USMCR

Ref: [REDACTED] BCNR request of 20 Jan 99

1. Per the reference, the following advisory opinion is provided.
2. [REDACTED] subject BCNR effort to remove his FY98 failure for selection to LtCol was initiated while he was still a Major in rank. [REDACTED] was successfully selected for promotion on 1 May 1999.
3. Reserve Affairs Division has reviewed [REDACTED] BCNR request of 21 Dec 98 and the enclosures. Although it is impossible to speculate the results of any promotion board, including that of the FY99 Reserve LtCol Board which failed to select [REDACTED] the removal of the subject report and reviewing officer comments, approved by MMER/PERB on 15 April 1999, would have resulted in his record being more competitive for promotion.
4. It is the advisory opinion of the Reserve Affairs Division that [REDACTED] s date of rank (DOR) be backdated to that which would have been assigned to him if he were selected by the FY98 Reserve LtCol Selection Board. If approved, this DOR adjustment date will be determined and assigned by the Manpower Management Promotions Branch (MMPR) Coml [REDACTED]
5. The point of contact concerning this matter is [REDACTED]
[REDACTED] coml [REDACTED]

[REDACTED]
[REDACTED]
Major, U.S. Marine Corps Reserve
Head, Reserve Affairs Retention
By direction of the
Commandant of the Marine Corps

MEMORANDUM FOR THE RECORD

**BOARD FOR CORRECTION OF NAVAL RECORDS (BCNR)
PERFORMANCE SECTION
2 NAVY ANNEX, SUITE 2432
WASHINGTON, DC 20370-5100
TELEPHONE: DSN 224-9842 OR COMM (703) 614-9842
FAX: DSN 224-9857, COMM (703) 614-9857, OR (815) 328-0742
E-MAIL: GEORGE.BRIAN@HQ.NAVY.MIL**

DATE: 2AUG99

DOCKET NO: [REDACTED]

PETITIONER (PET): LTCDR [REDACTED] USMCR

PARTY CALLED: [REDACTED] QMC MMPR-1

TELEPHONE NUMBER: (703) 784-9700

WHAT I SAID: I ASKED [REDACTED] WHICH SEL BD PET FAILED BEFORE AND IF PET HAD BEEN PROMOTED BY THE FY-99 USMCR LTCOL SEL BD, WHAT HIS DOR AND EFF DATE WOULD HAVE BEEN.

WHAT PARTY SAID: I WAS INFORMED THAT PET FOS BEFORE THE FY-99 USMCR LTCOL SEL BD. HAD HE BEEN PROMOTED BY THE FY-99 USMCR LTCOL SEL BD, HE WOULD HAVE RECEIVED A DOR AND EFF DATE OF 1NOV98

[REDACTED]