ADDENDUM TO

RECORD OF PROCEEDINGS

AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF: DOCKET NUMBER: BC-1994-04265

XXXXXXXXXXXXXXXX COUNSEL: NONE

HEARING DESIRED: YES

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APPLICANT REQUESTS THAT:

His Enlisted Performance Report (EPR), closing out 5 October 1990, be removed from his records.

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STATEMENT OF FACTS:

On 21 September 1995, the Board considered and denied the applicant’s appeal requesting that his EPR closing out 5 October 1990 be removed from his records. A complete copy of the Record of Proceedings is attached at Exhibit F (with Exhibits A through E).

By DD Form 149, dated 28 April 2008, the applicant requests reconsideration of his request, contending the report was written six months after the closeout date and his rater stated he did not write or sign the EPR as he was deployed to a remote location during DESERT SHIELD/DESERT STORM. He also contends the EPR makes references to events that occurred after the closeout date of 5 October 1990.

In support of the appeal, the applicant submits copies of a statement from the rater of the contested EPR stating he did not complete the EPR; a letter of support from his commander at the time of the contested report; the contested EPR; a Report on Individual Personnel (RIP); a *Brief in Support of Motion to Dismiss for Lack of Evidence Subject Matter Jurisdiction* filed with the United States District Court, Eastern District of Arkansas, Western Division; a document pertaining to integrity/honesty; and a document pertaining to Operation DESERT STORM.

Applicant’s complete submission, with attachments, is at Exhibit G.

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THE BOARD CONCLUDES THAT:

1.  We have thoroughly reviewed the evidence of record and considered both the weight and relevance of the additional documentation provided by the applicant, and whether or not it was discoverable at the time of any previous application. Although the documentation he has furnished from the now-retired officer who conducted the Commander’s Review of the contested EPR is new and relevant, we are not persuaded that it meets the criteria for reconsideration as it appears to have been reasonably available when the original application was submitted. As the applicant has been previously advised, reconsideration is provided only where newly discovered relevant evidence is presented which was not available when the application was submitted. Further, the reiteration of facts we have previously addressed, uncorroborated personal observations, or additional arguments on the evidence of record are not adequate grounds for reopening a case. In view of the above and in the absence of new and relevant evidence discoverable at the time of any previous application, we find no basis to reconsider the applicant’s request.

2.  The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issue(s) involved. Therefore, the request for a hearing is not favorably considered.

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THE BOARD DETERMINES THAT:

The applicant be notified that the additional evidence presented did not meet the criteria for reconsideration by the Board; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

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The following members of the Board considered the applicant’s request for reconsideration of AFBCMR Docket Number BC-1994-04265 in Executive Session on 4 December 2008, under the provisions of AFI 36-2603:

Mr. Mr. Thomas S. Markiewicz, Chair

Ms. Michele M. Rachie, Member

Mr. Mark J. Novitski, Member, Member

BC-1994-04265

The following additional documentary evidence was considered:

Exhibit F. Record of Proceedings, dated 26 Jul 96,

w/atchs.

Exhibit G. DD Form 149, dated 28 Apr 08, w/atchs.

THOMAS S. MARKIEWICZ

Chair