

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)		GRADE	AFSN/SSAN
[REDACTED]		A1C	[REDACTED]

TYPE UOTHC	PERSONAL APPEARANCE	X RECORD REVIEW
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COUNSEL		NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	NO		
	X		

MEMBERS SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
[REDACTED]					X
[REDACTED]					X
[REDACTED]		X			
[REDACTED]					X
[REDACTED]					X

ISSUES A93.09, A93.11, A94.05	INDEX NUMBER A47.00	EXHIBITS SUBMITTED TO THE BOARD		
		1	ORDER APPOINTING THE BOARD	
HEARING DATE 03-01-10	CASE NUMBER FD2002-0235	2	APPLICATION FOR REVIEW OF DISCHARGE	
		3	LETTER OF NOTIFICATION	
		4	BRIEF OF PERSONNEL FILE	
			COUNSEL'S RELEASE TO THE BOARD	
			ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE	
			TAPE RECORDING OF PERSONAL APPEARANCE HEARING	

APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONAL ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

REMARKS

Case heard at Washington, D.C.

Advise applicant of the decision of the Board and the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.

SIGNATURE OF RECORDER	SIGNATURE OF BOARD PRESIDENT
[REDACTED]	[REDACTED]

INDORSEMENT	DATE: 03-01-10
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TO:	FROM:
SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3 RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

FD2002-0235

GENERAL: The applicant appeals for upgrade of discharge to general, under honorable conditions.

The applicant was offered a personal appearance before the Discharge Review Board but declined to exercise this right.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge is denied.

The Board finds that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge.

Issues. Applicant was discharged for commission of a serious offense, and received an under other than honorable conditions characterization of service. Member received an Article 15 for wrongful use of his government travel card for personal purposes, and failure to pay the resulting debt of over \$7,400.00. Applicant now contends he misused the card due to some deaths in his family and the necessity to travel home from overseas, and assist with the funeral expenses. He further states after telling his supervisor he didn't have the money to get home, his supervisor gave him no guidance. At the time of the Article 15, member stated the main reason he misused the card was due to his wife becoming unemployed and they needed the money to live on, in addition to the deaths in his family occurring. At the time of the discharge member submitted an unconditional waiver of his right to a board hearing. The board noted member had several Enlisted Performance Reports from the period of enlistment under review as well as a previous one, that were referrals due to repeated financial irresponsibility that predated the incident for which he received the Article 15. Member was age 18 to 23 when his misconduct occurred, essentially the same age as other airmen who complete their enlistments without disciplinary infractions, and there was no evidence he did not know right from wrong. Member had ample opportunity to change his negative behavior and was either unwilling or unable to do so. Therefore, the Board found the record supports the characterization of service received.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and that the applicant was provided full administrative due process.

In view of the foregoing findings the board further concludes that there exists no legal or equitable basis for upgrade of discharge, thus the applicant's discharge should not be changed.

Attachment:

Examiner's Brief

DEPARTMENT OF THE AIR FORCE
 AIR FORCE DISCHARGE REVIEW BOARD
 ANDREWS AFB, MD

(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 95/04/11 UP AFI 36-3208, para 5.52.3 (Misconduct - Commission of a Serious Offense). Appeals for General Disch.

2. **BACKGROUND:**

a. DOB: 71/11/29. Enlmt Age: 17 2/12. Disch Age: 23 4/12. Educ:HS DIPL. AFQT: N/A. A-77, E-38, G-46, M-42. PAFSC: 3P151 - Combat Arms Maintenance and Training Journeyman. DAS: 93/05/09.

b. Prior Sv: (1) AFRes 89/02/15 - 89/11/01 (8 months 17 days) (Inactive).

(2) Enlisted as A1C 89/11/02 for 4 yrs. Extended 92/07/24 for 5 months. Svd: 3 yrs 3 months 1 days, all AMS. SRA --92/09/16. EPRs: 3,3.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as SRA 93/02/03 for 4 yrs. Svd: 02 Yrs 02 Mo 09 Das, all AMS.

b. Grade Status: A1C - 94/11/21 (Article 15, 94/11/21)

c. Time Lost: none.

d. Art 15's: (1) 94/11/21, Whiteman AFB, MO - Article 121 & 134. You, did, 5 Jul 94, to on or about 26 Aug 94, wrongfully appropriate \$7,447.43 in United States currency, a value of \$7,447.43, the property of ----- You, did, between on or about 5 Jul 94 and on or about 26 Aug 94, with intent to defraud, falsely pretend to ----- that you were using your ----- Card for official Government Travel, then knowing that the pretenses were false and by means thereof wrongfully and unlawfully obtain from ----- ATM cash withdrawal services a value of \$7,447.43. You, being indebted to ----- in the sum of \$7,447.43 which amount became due and payable on or about 26 Sep 94, did, on or about 26 Sep 94, dishonorably fail to pay said debt. Reduction to A1C, and suspended forfeiture of \$250.00 per month for two months. (No appeal) (No mitigation)

e. Additional: none.

f. CM: none.

g. Record of SV: 92/07/06 - 93/03/12 RAF Mildenhall 3 (CRO)
 93/03/13 - 93/06/15 Whiteman AFB 4 (Cmdr Dir) REF
 93/06/16 - 94/06/15 Whiteman AFB 5 (Annual)

(Discharged from Whiteman AFB)

h. Awards & Decs: AFTR, NEPM, SAEMR W/1 DEV, AFLSAR, NDSM, AFGCM, AFOUA
 W/2 DEVS, AFAM.

i. Stmt of Sv: TMS: (06) Yrs (01) Mos (27) Das
 TAMS: (05) Yrs (05) Mos (10) Das

4. BASIS ADVANCED FOR REVIEW: Appln (DD Fm 293) dtd 02/05/28.
 (Change Discharge to General)

Issue 1: I served a total of 6 years and 3 months in the Air Force. I received an Other Than Honorable Conditions discharge. The reason for this discharge was due a unauthorized use of a military issued ----- card. My grandmother had passed and I was granted leave to go home from an overseas location. At the time I did not have the money to travel home and the ticket was \$1,256.79 round trip to get home. I discussed the trip with my supervisor at the time and he had no idea on what I should do. Therefore I charged the plane ticket using my ----- card. When I returned off leave I informed my supervisor of what I had done. A few months later the military told me that I had used the card without being TDY, which I understood. I was demoted in rank and removed from my unit to pick up trash and clean up the base until further notice. After several months I was then discharged from the military under other than honorable conditions. While in the Air Force I received numerous awards such as 2 good conduct medals and an Air Force Achievement Medal for rendering first aid on a crash scene. I also served two tours in Operation Desert Shield/Storm from August 1990 to February 1991. I understand what I did was wrong but I had to get home and there was no other way. I feel my service in the military was very honorable except for one mishap. Since then I have paid the debt to the ----- Card Company. There is nothing more I can add (sic) to this statement. My supervisor's name who was aware of this whole case is SSgt ----- . I could not locate him to get a statement at this time. Thank you.

ATCH

1. Applicant's Issues.

02/09/05/ia

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS, 509TH BOMB WING (ACC)
WHITEMAN AIR FORCE BASE, MISSOURI

21 MAR 1995

MEMORANDUM FOR 509 BW/CC

FROM: 509 BW/JA

SUBJECT: Final Legal Review, AFI 36-3208, Administrative Discharge Case
[REDACTED] 509 SPS

1. **BASIS OF ACTION:** The respondent's squadron commander initiated discharge action under AFI 36-3208, paragraph 5.52.3, for Commission of a Serious Offense. He recommends an under other than honorable conditions discharge without probation and rehabilitation.

2. **EVIDENCE FOR THE GOVERNMENT:** The record contains sufficient evidence to substantiate discharge under paragraph 5.52.3. Specific instances of the respondent's commission of a serious offense include:

a. On 26 September 1994, he did dishonorably fail to pay a just debt of \$7,447.43 to the American Express Travel Card Company.

b. On or about 5 July 1994 to on or about 26 August 1994, he did with intent to defraud, misrepresent to the American Express Travel Card Company the use of his Government Issued American Express Travel Card as Official Use when the actual circumstances were purely personal in nature.

3. **EVIDENCE FOR THE RESPONDENT:** The respondent is 23 years old. He has been in the Air Force for 5 year and 3 months. He has had 5 enlisted performance reports. He is entitled to wear the Air Force Achievement Medal, the Air Force Good Conduct Medal, the Small Arms Expert Rifle Ribbon (1 OLC), the Navy Expert Pistol Medal, the Air Force Longevity of Service Award, the Air Force Outstanding Unit Award (2 OLC), the National Defense Service Medal and the Air Force Training Ribbon.

4. **DISCUSSION:** The respondent was initially notified of this discharge action on 4 January 1995. At that time, the characterization of discharge was recommended as Under Other Than Honorable Conditions. On 1 March 1995, [REDACTED] submitted an unconditional waiver of the rights associated with an administrative discharge board.

[REDACTED] conduct during his Air Force career has been marginal, with various incidents of financial irresponsibility that are of a nature to place his ability to serve satisfactorily in doubt. These incidents display a total disregard for Air Force standards and a lack of integrity on the part of the respondent. [REDACTED] obtained approximately \$7,447.43 worth of Automatic Teller Sevcies from the American Express Travel Card Company. Over the past six months, he has not made any attempt whatsoever to pay this debt after it became due. The scope of this misconduct is severe, and the damage to the image and reputation of the Air Force has been substantial. His offenses are a serious departure from the standards of good order and discipline, and falls within the parameters of conduct that may be defined as under other than honorable conditions. Furthermore, the severe nature of these offenses indicates the respondent lacks the potential to serve satisfactorily, and

lacks the capacity to be rehabilitated. It is appropriate that he return to civilian life with the stigma of discharge for cause.

5. **TIMELINESS:** The triggering event in this case is the Notification Letter, dated 4 January 1995.

6. **DISPOSITION ALTERNATIVES:** You, as special court-martial convening authority may:


(a) reject the unconditional waiver and tell the respondent that an administrative discharge board will be convened to hear this case; or


(b) recommend acceptance of the unconditional waiver and that the respondent be separated with an under other than honorable conditions discharge, with or without an offer of probation and rehabilitation and forward this recommendation to the general court-martial convening authority for his action;

(c) recommend acceptance of the unconditional waiver and that the respondent be separated with an honorable or a general discharge, with or without an offer of probation and rehabilitation and forward this recommendation to the general court-martial convening authority for his action;

7. **LEGAL SUFFICIENCY:** This case file is legally sufficient to support action under AFI 36-3208, para 5.52.3. When the case file contains documentation to indicate the respondent is medically qualified for discharge, the file will be complete.

8. **RECOMMENDATION:** I recommend you forward the respondent's unconditional waiver to the General Court-Martial Convening Authority with a recommendation of acceptance without an offer of probation and rehabilitation.

, USAF
Staff Judge Advocate

Attachment
Discharge Package - 

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 509TH SECURITY POLICE SQUADRON (ACC)
WHITEMAN AIR FORCE BASE, MISSOURI

4 Jan 95

MEMORANDUM FOR [REDACTED], 509 SPS

FROM: 509 SPS/CC

SUBJECT: Notification Letter - Board Hearing

1. I am recommending your discharge from the United States Air Force for Commission of a Serious Offense according to AFI 36-3208, under the provisions of paragraph 5.52.3. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reason for this action is:

a. On 26 September 1994, you did dishonorably fail to pay a just debt of \$7,447.43 to the American Express Travel Card Company, as evidenced by an AF Form 3070, dated 21 November 1994. (Atch 1)

b. On or about 5 July 1994 to on or about 26 August 1994, you did wrongfully appropriate approximately \$7,447.43 from the American Express Travel Card Company, and did, with intent to defraud, misrepresent the use of your Government Issued American Express Travel Card as Official Use when the actual circumstances were purely personal in nature, as evidenced by an AF Form 3070, dated 21 November 1994. (Atch 1)

3. This action could result in your separation with an under other than honorable conditions discharge. I am recommending your service be characterized as under other than honorable conditions. The commander exercising SPCM jurisdiction or a higher authority will make the final decision in this matter. If you are discharged, you will be ineligible for reenlistment in the Air Force and will probably be denied enlistment in any component of the armed forces. Any special pay, bonus, or education assistance funds maybe subject to recoupment.

4. You have the right to:

- a. Consult legal counsel.
- b. Present your case to an administrative discharge board.
- c. Be represented by legal counsel at a board hearing.
- d. Submit statements in your own behalf in addition to, or in lieu of, the board hearing.
- e. Waive the above rights. You must consult legal counsel before making a decision to waive any of your rights.

5. You have been scheduled for a medical examination. You must report to Physical Exams at 0900 on 3 Jan 95
time date

6. Military legal counsel, [REDACTED], bldg 1000, ext 75556, has been obtained to assist you. An appointment has been scheduled for you to consult him on 9 Jan, at 0900. Instead of the appointed counsel, you may have another, if the lawyer you request is in the active military service and is reasonably available as determined according to AFR 111-1. In addition to military counsel, you have the right to employ civilian counsel. The Air Force does not pay expenses incident to the employment of civilian counsel. Civilian counsel, if employed, must be readily available.

7. Confer with your counsel and reply, in writing, within seven workdays, specifying the rights you choose to exercise. The statement must be signed in the presence of your counsel who also will sign it. If you waive your right to a hearing before an administrative discharge board, you may submit written statements in your own behalf. I will send the statements to the discharge authority with the case file to be considered with this recommendation. If you fail to respond, your failure will constitute a waiver of the right to the board hearing.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-3208 is available for your use in your orderly room. This copy of AFI 36-3208 must be returned to your orderly room upon the completion of this action.

9. If you request a board and you fail to appear without good cause, your failure to appear constitutes a waiver of your right to be present at the hearing.

10. If applicable, the discharge board or, the discharge authority will make the finding and recommendations regarding advanced educational assistance required under 10 U.S.C. 2005(g).

11. Execute the attached acknowledgment and return it to me immediately.

[REDACTED]

, USAF

Commander, 509 SPS

ATTACHMENTS

1. Supporting documents -- for the reason for discharge: AF Form 3070, dtd 21 Nov 94
2. Documents containing derogatory information -- which are not listed in the notification letter: None
3. Airman's acknowledgement, dated 4 Jan 95.