

## AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> [REDACTED]	<b>GRADE</b> AIC	<b>AFSN/SSAN</b> [REDACTED]
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<b>TYPE</b>	<b>PERSONAL APPEARANCE</b>	<b>X RECORD REVIEW</b>
<b>COUNSEL</b>		<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>
<b>YES</b>	<b>NO</b>	
	X	

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

<b>ISSUES</b> A94.05	<b>INDEX NUMBER</b> A67.10	<b>EXHIBITS SUBMITTED TO THE BOARD</b>		
		1	ORDER APPOINTING THE BOARD	
		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 RATIONALE 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, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.

<b>SIGNATURE OF RECORDER</b> [REDACTED]	<b>SIGNATURE OF BOARD PRESIDENT</b> [REDACTED]
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<b>INDORSEMENT</b>	<b>DATE: 21 FEB 03</b>
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<b>TO:</b> SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3 <sup>RD</sup> FLOOR ANDREWS AFB, MD 20762-7002
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**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

FD02-0342

**GENERAL:** The applicant appeals for upgrade of discharge to Honorable.

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

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

**FINDINGS:** Upgrade of discharge is denied.

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

**ISSUE:** Applicant contends that his discharge was too harsh because it was based on an appeal for the non-judicial punishment that dropped him two pay-grades instead of the intended one pay-grade. He also states that his discharge was for financial instability and that his commanding officer neglected to properly review his military file. The record indicates the applicant received an Article 15 for writing bad checks. He also received three Records of Individual Counseling for failure to go twice, and dereliction of duty; and two Letters of Reprimand for failure to go on two occasions and failure to obey an order. The Board found no evidence of any inequity or impropriety on which to base a decision to upgrade the discharge. The characterization of the applicant's discharge was appropriate due to the misconduct.

**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 AB) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF 2 Jun 97 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Disch.

2. **BACKGROUND:**

a. DOB: 7 Dec 76. Enlmt Age: 18 9/12. Disch Age: 20 5/12. Educ: HS DIPL. AFQT: N/A. A-65, E-90, G-92, M-84. PAFSC: 2W031 - Munitions Systems Apprentice. DAS: 11 Jul 96.

b. Prior Sv: (1) AFRes 18 Sep 95 - 9 Jan 96 (3 Mos 22 Days) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enld as AB 10 Jan 96 for 4 yrs. Svd: 1 Yr 4 Mos 23 Das, all AMS.

b. Grade Status: AB - 12 May 97 (Article 15, 12 May 97)  
A1C - 10 May 97  
AMN - Unknown

c. Time Lost: None.

d. Art 15's: (1) 12 May 97, Dyess AFB, TX - Article 134. You did, on divers occasions from on or about 8 Mar 97 to on or about 15 Mar 97, make and utter to the ----- certain checks, in the total amount of \$286.21 for the purchase of goods and/or services, and did thereafter dishonorably fail to maintain sufficient funds in the ----- for payment of such checks in full upon their presentment for payment. Reduction to the grade of AB. (Appeal denied) (No mitigation)

e. Additional: RIC, 11 APR 97 - Failure to go.  
LOR, 15 NOV 96 - Failure to obey an order.  
RIC, 7 NOV 96 - Failure to go.  
RIC, 21 OCT 96 - Dereliction to duty.  
LOR, 17 SEP 96 - Failure to go on two occasions.

f. CM: None.

g. Record of SV: None.

(Discharged from Dyess AFB)

h. Awards & Decs: AFTR.

i. Stmt of Sv: TMS: (1) Yr (8) Mos (15) Das  
TAMS: (1) Yr (4) Mos (23) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 2 Aug 02.  
(Change Discharge to Honorable)

Issue: My discharge was inequitable because it was based on an appeal for the non-judicial punishment that dropped me two pay-grades instead of the intended one pay-grade. The discharge in letter is for finacial (sic) instability which was not the case as I had made payment arrangements for my finacial (sic) mistakes to be paid from my pay-roll. Furthermore my commanding officer neglected to properly review my military file, had he an appeal would not have been filed and I would not have lost two pay-grades. In closing, had my commanding office (sic) reviewed my files properly, I feel I would have finished my four active years and would not be nearing the end of my four reserve years.

**ATCH**  
None.

19 Nov 02/cr



**DEPARTMENT OF THE AIR FORCE**  
**HEADQUARTERS 7TH BOMB WING (ACC)**  
**DYESS AIR FORCE BASE, TEXAS**

MEMORANDUM FOR 7 BW/CC

*28 May 97*

FROM: JA

SUBJECT: Legal Review - AFD 36-32 and AFI 36-3208 Action, [REDACTED]

1. I have reviewed the attached file pertaining to [REDACTED] and find it legally sufficient to support his discharge under AFD 36-32 and AFI 36-3208, paragraph 5.49, dated 14 Oct 94, Minor Disciplinary Infractions.

2. PERSONAL DATA: [REDACTED] is 20 years old, single, and has no dependents. His current enlistment is for 4 years and commenced on 10 Jan 96. His pay date and TAFMSD are 10 Jan 96. He has no duty performance ratings at this time due to his short time in the Air Force.

3. BASIS FOR ACTION: On 27 May 97, the Commander, 7 EMS, recommended that [REDACTED] be discharged from the Air Force with a General discharge. In support of this recommendation, the commander has cited the following facts and has included the relevant documentation from [REDACTED] military record:

a. [REDACTED] did, on divers occasions from on or about 8 Mar 97 to on or about 15 Mar 97, make and utter to the Army Air Force Exchange Service certain checks for the purchase of goods and/or services, and did thereafter dishonorably fail to maintain sufficient funds in the Nations Bank for payment of such checks in full upon their presentment for payment, as evidenced by AF Form 3070, dated 21 May 97.

b. He did, on 8 Apr 97, without authority, fail to go at the time prescribed to his appointed place of duty, as evidenced by AF Form 174, dated 11 Apr 97.

c. He did, on 13 Nov 96, fail to obey a lawful verbal order given to him by [REDACTED] in that [REDACTED] told him to review a Technical Order, an order that was his duty to obey, as evidenced by LOR, dated 15 Nov 96.

d. He did, on 7 Nov 96, without authority, fail to go at the time prescribed to his appointed place of duty, as evidenced by AF Form 174, dated 7 Nov 96.

e. He did, on 12 Sep 96 and on 17 Sep 96, without authority, fail to go at the time prescribed to his appointed place of duty, as evidenced by LOR, dated 17 Sep 96.

f. He was, on 18 Oct 96, derelict in the performance of his duties in that he failed to properly clean the men's restroom, as it was his duty to do, as evidenced by AF Form 174, dated 21 Oct 96.

4. MEMBER'S RESPONSE: [REDACTED] consulted with the Area Defense Counsel [REDACTED]. He has waived his right to submit statements regarding this discharge action.

5. ERRORS OR IRREGULARITIES: None.

## 6. CONCLUSIONS:

a. Should the Member be Discharged - The evidence contained in the discharge package is legally sufficient to support separation under AFPD 36-32 and AFI 36-3208, paragraph 5.49. Before a commander recommends discharge under this paragraph, the member must be counseled about the deficiencies and given the opportunity to overcome them. This has been done in this case. [REDACTED] has been counseled and reprimanded for failure to go, dereliction in the performance of his duties, and failure to obey an order. He received Article 15 punishment for writing checks and thereafter dishonorably failing to maintain sufficient funds in his bank account to cover said checks on presentment for payment. Discharge is appropriate in this case.

b. Characterization of Discharge - Under AFPD 36-32 and AFI 36-3208, Table 1-3, this member may be separated with an Under Other Than Honorable Conditions discharge. However, the member would be entitled to have his case heard by an administrative board if such a characterization was recommended. After reviewing all the relevant facts and circumstances, the squadron commander has recommended that [REDACTED] receive a General discharge. A General discharge is appropriate when significant negative aspects of an airman's conduct or performance outweigh the positive record. While [REDACTED] misconduct is intolerable, it does not rise to the level which clearly warrants an Under Other Than Honorable Conditions discharge. A General discharge is warranted in this case.

c. Probation and Rehabilitation - Under AFPD 36-32 and AFI 36-3208, Chapter 7, probation and rehabilitation should be offered to airmen who have demonstrated a potential to serve satisfactorily; who have the capacity to be rehabilitated for continued military service; and for those whose retention on active duty in a probationary status is consistent with the maintenance of good order and discipline in the Air Force. The squadron commander has tried to rehabilitate [REDACTED] giving him the opportunity to overcome his deficiencies as required by AFPD 36-32 and AFI 36-3208, para 5.2. Specifically, the commander used the following rehabilitative tools: Article 15 (reduction in rank); three letters of counseling; and two letter of reprimands. [REDACTED] continued misconduct and failure to respond to the various corrective efforts already taken have demonstrated neither a potential to serve satisfactorily nor a capacity to be rehabilitated. The retention of this member would be inconsistent with the maintenance of good order and discipline in the Air Force.

7. **OPTIONS OF THE SEPARATION AUTHORITY:** You are the separation authority in this case. Your options are.

- a. Retain the member in the Air Force.
- b. Discharge the member with a General discharge, with or without probation and rehabilitation.
- c. Recommend to 8 AF/CC that the member be separated with an Honorable discharge, with or without probation and rehabilitation, if you believe an Honorable discharge is appropriate.
- d. Direct this action be initiated under administrative board proceedings, if you believe only an Under Other Than Honorable Conditions discharge can properly characterize the member's service.

## 8. **RECOMMENDATION:**

a. I recommend that you discharge [REDACTED] with a General discharge, without the opportunity for probation and rehabilitation.

b. Further, should you concur in this recommendation for discharge, I recommend this member be barred from the installation. An individual with this type of track record of misconduct seems destined for further trouble and could impact on good order and discipline on this installation.



Attachment  
Case File - 



**DEPARTMENT OF THE AIR FORCE**  
**HEADQUARTERS 7TH BOMB WING (ACC)**  
**DYESS AIR FORCE BASE, TEXAS**

27 MAY 1997

MEMORANDUM FOR [REDACTED]

FROM: 7 EMS/CC

SUBJECT: Letter of Notification

1. I am recommending your discharge from the United States Air Force for Minor Disciplinary Infractions. The authority for this action is AFPD 36-32 and AFI 36-3208, paragraph 5.49, dated 14 Oct 94. If my recommendation is approved, your service will be characterized as Honorable or General. I am recommending that your service be characterized as General (Under Honorable Conditions).

2. My reasons for this action are:

a. You did, on divers occasions from on or about 8 Mar 97 to on or about 15 Mar 97, make and utter to the Army Air Force Exchange Service certain checks for the purchase of goods and/or services, and did thereafter dishonorably fail to maintain sufficient funds in the Nations Bank for payment of such checks in full upon their presentment for payment, as evidenced by AF Form 3070, dated 21 May 97.

b. You did, on 8 Apr 97, without authority, fail to go at the time prescribed to your appointed place of duty, as evidenced by AF Form 174, dated 11 Apr 97.

c. You did, on 13 Nov 96, fail to obey a lawful verbal order given to you by [REDACTED] in that [REDACTED] told you to review a Technical Order, an order that was your duty to obey, as evidenced by LOR, dated 15 Nov 96.

d. You did, on 7 Nov 96, without authority, fail to go at the time prescribed to your appointed place of duty, as evidenced by AF Form 174, dated 7 Nov 96.

e. You did, on 12 Sep 96 and on 17 Sep 96, without authority, fail to go at the time prescribed to your appointed place of duty, as evidenced by LOR, dated 17 Sep 96.

f. You were, on 18 Oct 96, derelict in the performance of your duties in that you failed to properly clean the men's restroom, as it was your duty to do, as evidenced by AF Form 174, dated 21 Oct 96.

Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or higher authority will decide whether you will be discharged or retained in the Air Force and, if you are discharged, how your service will be characterized.

3. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult [REDACTED] Area Defense Counsel, on 28 May 97 at 0900 hours. You may consult civilian counsel at your own expense. *28 BJS*

4. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 29 May 97, 0800 hours, unless you request and receive an extension for good cause shown. I will send them to the separation authority.

5. If you fail to consult counsel or to submit statements in your own behalf, your failure will constitute a waiver of your right to do so.

**Global Power for America**



6. You have been scheduled for a medical examination on 27 May 97, at 0900 hours, at the 7th Medical Group Hospital, Physical Exams Section.
7. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFPD 36-32 and AFI 36-3208 is available for your use in the orderly room.
8. Execute the attached acknowledgment and return it to me immediately.



**Attachments:**

1. Airman's Receipt of  
Letter of Notification
2. AF Form 3070 dated 21 May 97
3. AF Form 174, dated 11 Apr 97
4. LOR, dated 15 Nov 96
5. AF Form 174, dated 7 Nov 96
6. LOR, dated 17 Sep 96
7. AF Form 174, dated 21 Oct 96