

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) [REDACTED]	GRADE AB	AFSN/SSAN [REDACTED]
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TYPE UOTHC	PERSONAL APPEARANCE	X RECORD REVIEW
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 A92.01; A92.35	INDEX NUMBER A67.90	EXHIBITS SUBMITTED TO THE BOARD
		1 ORDER APPOINTING THE BOARD
		2 APPLICATION FOR REVIEW OF DISCHARGE
		3 LETTER OF NOTIFICATION
HEARING DATE 10 JAN 03	CASE NUMBER FD2002-0355	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, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR.

SIGNATURE OF RECORDER [REDACTED]	SIGNATURE OF BOARD PRESIDENT [REDACTED]
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INDORSEMENT	DATE: 10 JAN 03
TO: SAF/MIBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	FROM: 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

CASE NUMBER

FD2002-0355

GENERAL: The applicant appeals for upgrade of discharge to General, change of reason for discharge, and change of reenlistment eligibility (RE) code.

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 the evidence of record nor that provided by the applicant substantiates an inequity or impropriety, which would justify a change of discharge.

The applicant's issues are listed in the attached brief.

Issue 1. Applicant contends discharge was inequitable because "it was too harsh". The information provided by the applicant and contained in his records was carefully reviewed by the DRB. The records indicated the applicant received three Article 15's for misconduct. The misconduct included dereliction of duty, failure to go, making a false official statement and wrongfully using a Government Cellular Phone. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate.

Issue 2. Applicant states that his discharge did not take into account the good things he did while in the service. The DRB took note of the applicant's duty performance as documented by his performance reports, and other information contained in the records. They found the seriousness of the willful misconduct offset any positive aspects of the applicant's duty performance. The Board concluded the discharge was appropriate for the reasons which were the basis for this case.

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, 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

[REDACTED]
[REDACTED]
(Former AB) (HGH SSGT)

1. **MATTER UNDER REVIEW:** Appl rec'd a UOTH Disch fr USAF 01 SEP 98 UP AFI 36-3208, para 5.50.2 (Misconduct - Conduct Prejudicial to Good Order and Discipline). Appeals for General Disch.

2. **BACKGROUND:**

a. DOB: 31 May 66. Enlmt Age: 20 11/12. Disch Age: 32 3/12. Educ: HS DIPL. AFQT: N/A. A-51, E-64, G-74, M-57. PAFSC: 3P051 - Security Forces Journeyman. DAS: 19 Aug 97.

b. Prior Sv: (1) AFRes 17 May 87 - 25 May 87 (9 days) (Inactive).

(2) Enlisted as AB 26 May 87 for 4 yrs. Reenlisted as SRA 29 Oct 90 for 4 yrs. Reenlisted as Sgt 01 Sep 94 for 2 yrs. Extended 26 Jul 96 for 9 months. Svd: 9 yrs 3 months 2 days, all AMS. AMN-(APR Indicates): 26 May 87-25 May 88. A1C-(EPR Indicates): 26 May 88-25 May 89. SRA - 26 May 90. SGT-(EPR Indicates): 12 Apr 91-2 Nov 91. APRs: 9. EPRs: 5,4,4,5,5,5,4,4,5,5.

3. **SERVICE UNDER REVIEW:**

a. Reenlisted as Sgt 29 Aug 96 for 4 yrs. Extended 12 Jul 97 for 12 months. Svd: 2 Yrs 0 Mo 3 Das, of which AMS is 1 yr 11 months 24 days (excludes 9 days lost time).

b. Grade Status: AB - 10 Jul 98 (Article 15, 10 Jul 98)
SRA - 15 Apr 98 (Article 15, Vacation, 29 May 98)
SSGT - 1 Oct 96.

c. Time Lost: 18 May 98 thru 26 May 98 (9 days).

d. Art 15's: (1) 10 Jul 98, McGuire AFB, NJ - Article 86. You did, on or about 18 May 98, without authority, absent yourself from your place of duty at which you are required to be, to wit: Clifton Recruiting Office located at Clifton, New Jersey, and did remain so absent until on or about 26 May 98. Article 92. You, did, within the territorial limits of the United States, on or about 18 May 98, fail to obey a lawful general regulation, to wit: AFI 65-104, Financial Management, paragraph 25.1, dated 01 May 96, by wrongfully using your ----- U.S. Government travel charge card to withdraw cash from automated teller machine for personal purposes unrelated to official government travel. You did, within the territorial limits of the United States, on

divers occasions between on or about 18 May 98 to on or about 26 May 98, fail to obey a lawful general regulation, to wit: DOD 5500.7.R, Joint Ethics Regulation, paragraph 2-301(a) dated Aug 93, by wrongfully using your Government Cellular Phone for personal purposes unrelated to official government business. Reduction to AB. (No appeal) (No mitigation)

- (2) 29 May 98, Vacation, McGuire AFB, NJ - Article 86. You, did, on or about 18 May 98, without authority, absent yourself from your place of duty at which you are required to be, to wit: Clifton Recruiting Office located at Clifton, New Jersey, and did remain so absent until about 25 May 98. Reduction to SrA. (No appeal) (No mitigation)
- (3) 15 Apr 98, McGuire AFB, NJ - Article 86. You, did, on or about 26 Mar 98, without authority, fail to go at the time prescribed to your appointed place of duty. Article 92. You, who knew of your duties, on or about 1 Dec 97 and on or about 24 Mar 98, were derelict in the performance of those duties in that you negligently failed to contact all Category 1 and II Armed Services Vocational Aptitude Battery leads telephonically, as it was your duty to do. You, who knew of your duties, between on or about 1 Feb 98 and 28 Feb 98, were derelict in the performance of those duties in that you negligently failed to visit all Priority 1 Schools within your area of responsibility twice, as it was your duty to do. Article 107. You, did, on or about 24 Mar 98, with intent to deceive, make an official statement, to wit: that you had contacted the squadron computer representative, -----, or words to that effect, which statement was totally false and was then known by you to be so false. You, did, on or about 25 Mar 98, with intent to deceive, make an official statement, to wit: that you had made phone calls to Category 1 and II Armed Services Vocational Aptitude Battery leads, or words to that effect, which statement was totally false and was then known by you to be so false. Suspended reduction to the grade of SRA, forfeiture of \$150.00 pay per month for 2 months, and a reprimand. (No appeal) (No mitigation)

e. Additional: None.

f. CM: None.

g. Record of SV: 13 Feb 96 - 12 Feb 97 McConnell AFB 5 (Annual)
13 Feb 97 - 02 Jul 97 McConnell AFB 5 (CRO)

(Discharged from McGuire AFB)

h. Awards & Decs: AFAM W/1 DEV, AFLSAR W/1 DEV, AFTR, NDSM, HSM, NCOPMER W/1 DEV, AFOUA W/1 DEV, JMUA, AFGCM W/2 DEVS.

i. Stmt of Sv: TMS: (11) Yr (3) Mos (6) Das

TAMS: (11) Yr (2) Mos (28) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 14 Aug 02.
(Change Discharge to General)

Issue 1: My discharge was inequitable because it was based on an incident which occurred between 18May98 and 26May98. Although my conduct did not reflect that of a non-commissioned officer during this period, I feel that my 10 years of honorable service prior to this incident was not taken into account. Because of the type of discharge I received, I have not been able to pursue a career in law enforcement even though I was well trained and excel in this field.

ATCH

1. List of Employment and Non-Hires.
2. Character Reference.

25NOV02/ia



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS TWENTY-FIRST AIR FORCE (AMC)

10 Aug 1998

MEMORANDUM FOR 21 AF/CC

FROM: HQ 21 AF/JA
1907 East Arnold Ave.
McGuire AFB NJ 08641-5613

SUBJECT: AFI 36-3208 Discharge Action [REDACTED]
Recruiting Squadron, McGuire AFB)

1. This case is presented to 21 AF/CC for action as separation authority pursuant to AFI 36-3208, paragraph 5.56.2. On 30 Jul 98, the respondent's commander initiated administrative discharge action against him under AFI 36-3208, paragraph 5.50.2 (Pattern of Misconduct – Conduct Prejudicial to Good Order and Discipline). The commander recommended separation from the Air Force with an Under Other Than Honorable Conditions (UOTHC) discharge and without probation and rehabilitation (P&R). The respondent elected to consult counsel and submitted an unconditional waiver of a board hearing in a memorandum dated 4 Aug 98. The special court-martial convening authority (the 305th Air Mobility Wing Commander) has recommended the waiver be accepted and that the respondent be given a UOTHC discharge without P&R.

2. As the separation authority, 21 AF/CC has the following options:

- a. Retain the respondent in the Air Force; or
- b. Reject the unconditional waiver and allow the processing of the case to continue according to AFI 36-3208; or
- c. Accept the unconditional waiver and order the respondent discharged with an honorable, general, or Under Other Than Honorable Conditions (UOTHC) discharge, with or without P&R.

3. Facts:

a. Personal Data: The respondent is 32 years old. The respondent's current enlistment began on 29 Aug 96 for a term of four years. The respondent's TAFMSD is 26 May 87.

b. For the Government: A preponderance of the evidence establishes the following events and disciplinary actions occurred during respondent's current enlistment:

<u>DATE</u>	<u>INCIDENT</u>	<u>ACTION</u>
18 May - 26 May 98	AWOL; Amex Abuse Misuse of Gov't Cell Phone	Art 15, dtd 10 Jul 98 Red. to AB
18 May - 25 May 98	AWOL	Vacated Art 15, dtd 29 May 98 - Red to E-4
26 Mar 98	Failure to go	Art 15, dtd 15 Apr 98 Red to E-4 (susp), forfeit \$150 per month for 2 months & a reprimand
1 Dec 97 - 24 Mar 98	Dereliction of Duty	See Art 15 above
1 Feb 98 - 28 Feb 98	Dereliction of Duty	See Art 15 above
24 Mar 98	False Official Statement	See Art 15 above
25 Mar 98	False Official Statement	See Art 15 above

This information should be considered in deciding which of the options described in paragraph 2 should be exercised.

c. For the Respondent: The respondent submitted a statement with his waiver of the administrative discharge board. He apologizes for his misconduct; states that he feels his overall service has been good, except for his time in recruiting. The respondent asks that consideration be given to separating him with a General Discharge, in light of his 11 years of good service and the difficulty a UOTHC will have on him in seeking employment. The respondent has 13 Enlisted Performance Reports on file with the following overall ratings: 9,5,4,4,5,5,5,4,4,5,5,5, and 5. The respondent has received the Air Force Achievement Medal (2 OLCs), Joint Meritorious Unit Award, Air Force Outstanding Unit Award (1 OLC), Air Force Good Conduct Medal (2 OLCs), National Defense Service Medal, Humanitarian Service Award, Air Force Longevity Service Award (1 OLC), Air Force NCO PME Ribbon, and the Air Force Training Ribbon.


3. Errors and Irregularities: This case has been processed in substantial compliance with AFI 36-3208. The respondent has been afforded all the rights and protections to which he is entitled. The case file is legally sufficient to support discharge of the respondent for the basis recommended by the initiating commander.

4. Discussion: An Airman is subject to discharge under AFI 36-3208, paragraph 5.50.2 for a conduct prejudicial to good order and discipline if the misconduct causes dissent, disruption or degradation of the mission. Amn [redacted]'s conduct clearly fits the terms of this paragraph as evidenced by his prior disciplinary actions.

5. Under AFI 36-3208, paragraph 5.48.1, discharge for conduct prejudicial to good order and discipline is usually characterized by a UOTHC discharge. A review of the misconduct in this case does not support the respondent's request that a general discharge be granted. His conduct was self-serving, repeated, and he did not correct his behavior despite repeated attempts to counsel him. After careful consideration of the respondent's military record and conduct during the current enlistment, I believe a UOTHC discharge is the proper service characterization. P&R is not warranted.

6. Recommendation: That 21 AF/CC accept the respondent's unconditional waiver and order him discharged for conduct prejudicial to good order and discipline, under AFI 36-3208, paragraph 5.50.2, with a UOTHC discharge and without P&R. We have attached a letter for 21 AF/CC's signature which implements these recommendations.

VR

 USAF
Staff Judge Advocate

Attachments:

1. Proposed Letter
2. Case File

FD 2002-0355



DEPARTMENT OF THE AIR FORCE
305th Air Mobility Wing (AMC)

MEMORANDUM FOR 305 AMW/CC

FROM: 305 AMW/JA

SUBJECT: Legal Review - Request for Unconditional Waiver of
Administrative Discharge Board, [REDACTED],
[REDACTED], McGuire AFB, NJ

1. This case is presented to 305 AMW/CC for action as convening authority pursuant to AFI 36-3208, *Administrative Separation of Airmen*, ¶5.56. On 30 Jul 98, the respondent's commander, 305 RCS/CC, initiated administrative discharge action against the respondent under AFI 36-3208, ¶5.50.2, *Pattern of Misconduct - Conduct Prejudicial to the Good Order and Discipline*. The commander recommended the respondent be separated from the Air Force with an Under Other than Honorable Conditions (UOTHC) Discharge. Since the member is being recommended for an UOTHC discharge characterization, he is entitled to a hearing before an administrative discharge board. The respondent consulted with counsel and submitted a request for an unconditional waiver of a discharge board on 30 Jul 98. The commander recommends approval of the unconditional waiver.

2. As convening authority, you have the following options:

- a. Reject the unconditional waiver and direct an administrative discharge board be convened; or
- b. Forward the package to 21 AF/CC (Approval Authority) and recommend approval of the unconditional waiver with a service characterization of Honorable, General (under honorable conditions) or UOTHC.

3. FACTS:

a. Personal Data: The respondent is 32 years old. The respondent's current enlistment began on 29 Aug 96 for a term of four years. The respondent's TAFMSD is 26 May 87.

b. For the Government: A preponderance of the evidence establishes that the respondent committed the following acts and

received the following disciplinary actions during the respondent's current term of service:

	<u>DATE OF INCIDENT</u>	<u>INCIDENT</u>
1.	1 Dec 97 - 24 Mar 98	Negligent Dereliction of Duty
2.	1 - 28 Feb 98	Negligent Dereliction of Duty
3.	24 Mar 98	False Official Statement
4.	25 Mar 98	False Official Statement
5.	26 Mar 98	Failure to Go
6.	18 - 26 May 98	Absent from Unit
7.	18 May 98	Failure to Obey
8.	18 - 26 May 98	Failure to Obey

For incidents 1, 2, 3, 4 and 5, the respondent received an Article 15 on 15 Apr 98 with a punishment of reduction to the grade of E-4 (suspended), forfeiture of \$150.00 pay per month for 2 months, and a reprimand. On 2 Jun 98 the commander vacated the suspended reduction in grade from the 15 Apr 98 Article 15, after incident 6 occurred. For incidents 6, 7 and 8, the respondent received an Article 15 on 10 Jul 98 with a punishment of reduction to the grade of E-1.

c. For the Respondent: The respondent unconditionally waived his discharge board. He has submitted matters for your review. The respondent has received the Air Force Training Ribbon, the NCO Professional Military Education Graduate Ribbon (1 device), the Air Force Longevity Service Award Ribbon (1 device), the Humanitarian Service Medal, the National Defense Service Medal, the Air Force Good Conduct Medal (2 devices), the Air Force Outstanding Unit Award (1 device), the Joint Meritorious Unit Award, and the Air Force Achievement Medal (1 device). He has 13 Enlisted Performance Reports on file with overall ratings as follows: 9 (old system), 5, 4, 4, 5, 5, 5, 4, 4, 5, 5, 5, 5. The close-out date of his last EPR was 2 Jul 97 (before his misconduct occurred).

4. DISCUSSION: Airmen are subject to discharge for misconduct based on conduct prejudicial to good order and discipline if the misconduct causes dissent, disruption and degradation of mission

effectiveness. The respondent had two instances of negligent dereliction of duty, he made two false official statements, he committed one failure to go, two failures to obey and he was absent from his unit, all within the last nine months, and all since his last EPR. He absented himself from work for an entire week in May 98, during which time he disobeyed lawful regulations by abusing his Government American Express card and by using his Government Cellular Phone for personal use.

After receiving an Article 15 and a suspended reduction in rank for this misconduct, he failed to go to his Flight Chief's Office on 26 Mar 98. He negligently failed to contact category I and II Armed Forces Vocational Aptitude Batteries, and he negligently failed to visit Priority 1 schools in his recruiting area (twice). He also intentionally stated that he contacted his squadron computer representative, knowing this was false, and he intentionally stated that he called all Category I and II Armed Services Vocational Aptitude Batteries, knowing this was false.

He has abused Government property, failed to show up for work, failed to perform his duties, and lied about it. His actions indicate he cannot be trusted, and they raise serious concerns and doubts as to his reliability, integrity and truthfulness. Thus, there is a basis for discharge. Furthermore, the respondent should be discharged due to the severity of the offenses.

After he received his first Article 15 in Apr 98, he subsequently committed three new offenses, during which time his original reduction in grade was suspended. He knew, during the time of these offenses, that further misconduct could result in the vacation of the suspended reduction in grade. He was on notice (the first Article 15) that he had to cease his misconduct. Clearly, he has not learned from his mistakes and his first Article 15, because he continued his misconduct, as evidenced by the second Article 15 in Jul 98. His continued pattern of misconduct shows his disrespect for authority and his unsuitability for continued military service. More serious action was considered for the most recent offenses, however, the commander exercised his discretion and decided to seek administrative separation.


An UOTHC discharge is recommended by AFI 36-3208, ¶5.48.1. An UOTHC is warranted when an airman demonstrates a pattern of misbehavior or one or more acts or omissions that constitute a significant departure from the conduct expected of airmen. A General discharge may be recommended if the negative aspects of

the airman's conduct or duty performance outweigh the positive aspects of the airman's military record. The respondent's service may be characterized as Honorable if the member's conduct and duty performance is otherwise so meritorious that any other characterization would be inappropriate.

An airman is expected to maintain the highest standards of discipline and integrity. This respondent's record was acceptable up to Dec 97, but has been grossly unacceptable since. He received two Articles 15 in the last nine months, due to eight instances of misconduct. He caused disruptions in his unit during this time, and his conduct deteriorated after receiving his first Article 15. Simply, the respondent's conduct has demonstrated a pattern significantly departing from that expected of airmen. His last nine months of service, seriously marred by ongoing misconduct, demonstrate no positive aspects of service, and overrides any prior positive aspects of service. Therefore, a service characterization of UOTHC is appropriate. Furthermore, Probation and Rehabilitation is inappropriate. The respondent has not exhibited the ability or desire to conform to the conduct expected of an airman.

5. ERRORS AND IRREGULARITIES: This case has been processed in substantial compliance with AFI 36-3208. The respondent has been afforded all the due process rights and protections to which he is entitled. The case file is legally sufficient to support discharging the respondent from the Air Force under the basis recommended by the initiating commander.

6. RECOMMENDATION: That you forward the package to 21 AF/CC with a recommendation to approve the unconditional waiver, separating the respondent with a service characterization of UOTHC. If you concur, please sign the proposed letter attached.


USAF
Assistant Staff Judge Advocate

I concur.


USAF
Staff Judge Advocate



DEPARTMENT OF THE AIR FORCE
314th Recruiting Squadron

FD2002-0355

MEMORANDUM FOR [REDACTED]

30 Jul 98

FROM: 314 RCS/CC

SUBJECT: Notification Memorandum—Board Hearing

1. I am recommending your discharge from the United States Air Force for Conduct Prejudicial to Good Order and Discipline according to AFD 36-32 and AFI 36-3208, under the provisions of paragraph 5.50.2. Copies of the documents to be forwarded to the separation authority to support this recommendation are attached.

2. My reasons for this action are:

a. You, did, on or about 18 May 98, without authority, absent yourself from your place of duty at which you are required to be, to wit: Clifton Recruiting Office located at Clifton, New Jersey, and did remain so absent on or about 26 May 98, in violation of Article 86, UCMJ.

b. You, did, within the territorial limits of the United States, on or about 18 May 98, fail to obey a lawful general regulation, to wit: Air Force Instruction 65-104, Financial Management, paragraph 25.1, dated 1 May 96, by wrongfully using your American Express/U.S. Government Travel Charge Card to withdraw cash from automated teller machine for personal purposes unrelated to official government travel, in violation of Article 92, UCMJ.

c. You, did, within the territorial limits of the United States, on divers occasions between on or about 18 May 98 to on or about 26 May 98, fail to obey a lawful general regulation, to wit: DoD 5500.7-R, Joint Ethics Regulation, paragraph 2-301(a) dated August 93, by wrongfully using your Government Cellular Phone for personal purposes unrelated to official government business, in violation of Article 92, UCMJ. For the offenses listed in paragraphs a through c, you received an Article 15 on 10 July 98 consisting of reduction to the grade of E-1 (Airman Basic), with a new date of rank of 10 July 98.

d. You, did, on or about 18 May 98, without authority, absent yourself from your place of duty at which you are required to be, to wit: Clifton Recruiting Office located at Clifton, New Jersey, and did remain so absent about 25 May 98, in violation of Article 86, UCMJ. For this offense you received an Article 15 vacation action on 29 May 98 consisting of reduction to the grade of E-4 (Senior Airman) with a new date of rank of 15 April 98.

e. You, did, at or near Hackensack, New Jersey, on or about 26 March 98, without authority, fail to go at the time prescribed to your appointed place of duty, to wit: 314th Recruiting Squadron/14G0 Flight Chief's Office, in violation of Article 86, UCMJ.

f. You, who knew of your duties at or near Clifton, New Jersey, between on or about 1 December 97 and on or about 24 March 98, were derelict in the performance of those duties in that you negligently failed to contact all Category I and II Armed Services Vocational Aptitude Battery leads telephonically, as it was your duty to do, in violation of Article 92, UCMJ.

g. You, who knew of your duties at or near Clifton, New Jersey, between on or about 1 February 98 and 28 February 98, were derelict in the performance of those duties in that you negligently failed to visit all Priority 1 Schools within your area of responsibility twice, as it was your duty to do, in violation of Article 92, UCMJ.

h. You, did, at or near Hackensack, New Jersey, on or about 24 March 98, with intent to deceive, make an official statement, to wit: that you had contacted the squadron computer representative, [REDACTED], or words to that effect, which statement was totally false and was then known by you to be so false, in violation of Article 107, UCMJ.

i. You, did, at or near Hackensack, New Jersey, on or about 25 March 98, with intent to deceive, make an official statement, to wit: that you made phone calls to Category I and II Armed Services Vocational Aptitude Battery leads, or words to that effect, which statement was totally false and was then known by you to be so false, in violation of Article 107, UCMJ. For the offenses listed in paragraphs e through i you received an Article 15 on 15 April 98 consisting of suspended reduction to the grade of E-4 (Senior Airman) which was previously vacated, forfeiture of \$150.00 pay per month for 2 months and a reprimand.

3. This action could result in your separation with an Under Other Than Honorable Conditions (UOTHC) discharge. I am recommending that you receive an Under Other Than Honorable Conditions discharge. The commander exercising SPCM jurisdiction or higher 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.

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 Walson Air Force Hospital at 0700 hours on 28 Jul 98.

6. Military legal counsel, [REDACTED] Bldg 2906, First Floor, 724-2349, has been obtained to assist you. An appointment has been scheduled for you to consult him on 3 Aug 98. 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 AFI 51-201. 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 7 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 board 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 a 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 the orderly room.

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. The discharge board or, the discharge authority will make the finding and recommendations required under 10 U.S.C. 2005(g).

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

[REDACTED]
[REDACTED], Major, USAF
Commander

Attachments:

1. AF Form 3070, dated 15 Apr 98
2. AF Form 366, dated 29 May 98
3. AF Form 3070, dated 10 July 98
4. Evidence
5. Airman's Acknowledgment