

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

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| NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) ████████████████████ | GRADE AIC | AFSN/SSAN ██████████ |
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|-----------------|----------|----------------------------|----------------------|
| TYPE GEN | X | PERSONAL APPEARANCE | RECORD REVIEW |
|-----------------|----------|----------------------------|----------------------|

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|----------------|-----------|--|---|
| COUNSEL | | NAME OF COUNSEL AND OR ORGANIZATION | ADDRESS AND OR ORGANIZATION OF COUNSEL |
| YES | No | | |
| | X | | |

| MEMBER SITTING | VOTE OF THE BOARD | | | | |
|-----------------------|--------------------------|-----|-------|-------|------|
| | HON | GEN | UOTHC | OTHER | DENY |
| ████████████████████ | | | | | X |
| ████████████████████ | X | | | | |
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| ISSUES A92.21 A93.01 A94.05 | INDEX NUMBER A49.00 | EXHIBITS SUBMITTED TO THE BOARD | | |
| | | 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 | |

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|------------------------------------|-------------------------------------|--|
| HEARING DATE 21 Oct 2004 | CASE NUMBER FD-2004-00171 | |
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard via video teleconference between Travis AFB, CA and Andrews AFB, MD.

Advise applicant of the decision of the Board, and the right to submit an application to the AFBCMR.

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| SIGNATURE OF RECORDER ████████████████████ | SIGNATURE OF BOARD PRESIDENT ████████████████████ |
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| INDORSEMENT | DATE: 10/21/2004 |
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| | |
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| TO: SAF/MRBR 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, 3RD FLOOR ANDREWS AFB, MD 20762-7002 |
|--|---|

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2004-00171

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant appeared and testified before the Discharge Review Board without counsel via video-teleconference between Travis AFB, CA, and Andrews AFB, MD on October 21, 2004.

The following additional exhibits were submitted at the hearing:

Exhibit 5: Character letter dated March 18, 2004 from [REDACTED]

Exhibit 6: Character letter dated March 24, 2004, from [REDACTED]

Exhibit 7: Character letter dated October 19, 2004, from [REDACTED]

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:

Issue 1. Applicant contends discharge was inequitable because it was too harsh, and that his chain of command pressured him to accept the discharge. The records reflect the applicant was discharged for unsatisfactory performance after being eliminated from two different technical training programs. Additionally, he had received two Articles 15, and a Record of Individual Counseling, all for alcohol-related incidents. The record disclosed that applicant's commander attempted to afford member a third retraining opportunity; while that was being worked, member had his third incident, which apparently caused reconsideration about his retention. A separation versus retention and retraining package was then processed and the decision authority determined separation to be the most appropriate action, after which the administrative discharge package was initiated. At that time applicant waived his right to consult counsel or to submit statements in his own behalf. Thus the Board found applicant's contention that he was pressured to accept the discharge to be without merit as he didn't avail himself of the procedures provided him to reply to the discharge. The DRB opined that through the extensive administrative actions taken to retain member after his first two technical school eliminations, the applicant had ample opportunities to succeed in the Air Force. Because the purpose of the airman retraining program is to retrain members whose behavior, attitude, and record of performance show a high probability of success in subsequent duty assignments, his chain of command apparently eventually reached the conclusion he didn't meet those criteria. Additionally, the Board concluded applicant's misconduct was a significant enough departure from conduct expected of all military members to warrant the characterization of discharge applicant received, and found it appropriate.

Issue 2. Applicant contends that he should not be penalized indefinitely for mistakes he made when young. The DRB recognized the applicant was 22 years of age when the discharge took place, as old as the vast majority of first-term members who properly adhere to Air Force's standards of conduct. And, there is no evidence he was immature or did not know right from wrong. Thus the DRB concluded that the characterization of the applicant's discharge was appropriate due to his misconduct.

Issue 3. Applicant infers the discharge was inequitable because his chain of command did not give him an opportunity to learn from his mistakes and be retained. The Board notes the discharge regulations clearly gave his chain of command authority to recommend administratively discharging him based on unsuitability for further military service. Facts and circumstances are different in each action and must be judged on a case-by-case basis. In doing so, a commander must consider how a member's retention might affect good order, discipline, and morale, and also factors such as the member's age, length of service, grade, aptitude, and the standards of acceptable conduct and performance. Administrative separation is an action that severs the military status of an individual and characterizes his service. All required procedures to do so were properly followed in the applicant's 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 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

[REDACTED]

(Former A1C) (HGH SRA)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr Altus AFB, OK on 12 Sep 03 UP AFI 36-3208, para 5.26.1 (Unsatisfactory Performance). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 12 Oct 80. Enlmt Age: 19 3/12. Disch Age: 22 11/12. Educ: HS DIPL. AFQT: N/A. A-69, E-57, G-52, M-74. PAFSC: 1C131 - Air Traffic Control Apprentice. DAS: 11 Dec 00.

b. Prior Sv: (1) AFRes 28 Jan 00 - 28 Mar 00 (2 months 1 day) (Inactive).

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 29 Mar 00 for 6 yrs. Svd: 3 Yrs 5 Mo 15 Das, all AMS.

b. Grade Status: A1C - 17 Oct 02 (Article 15, 17 Oct 02)
SRA - Unknown.
A1C - 12 May 00

c. Time Lost: None.

d. Art 15's: (1) 17 Oct 02, Altus AFB, OK - Article 111. You, did, on or about 28 Sep 02, physically control a vehicle, to wit: a passenger truck, while the alcohol concentration in your breath was 0.10 grams of alcohol per 210 liters of breath or greater as shown by chemical analysis. Reduction to A1C, 45 days restriction, 45 days extra duty, and a reprimand. (No appeal) (No mitigation)

(2) 31 Aug 00, Keesler AFB, MS - Article 92. You, who knew of your duties, on or about 3 Jul 00, were derelict in the performance of those duties in that you willfully failed to abide by Second Air Force Phase Program restrictions, by failing to refrain from drinking alcoholic beverages while under age 21, as was your duty to. Further, you, who knew of your duties, on or about 3 Jul 00, were derelict in the performance of those duties in that you willfully failed to abide by Second Air Force Phase Program restrictions by failing to complete a travel itinerary prior to departing the local area, as it was your duty to do. Thirty days correctional custody, and forfeiture of \$502.00 pay. (No appeal) (No mitigation)

e. Additional: RIC, 22 JAN 03 - Poor judgement.

f. CM: None.

g. Record of SV: 29 Mar 00 - 15 Oct 01 Altus AFB 4 (HAF Dir)
16 Oct 01 - 15 Oct 02 Altus AFB 3 (Annual)
16 Oct 02 - 06 Aug 03 Altus AFB 2 (HAF Dir)REF

h. Awards & Decs: AFTR, NDSM, AFOUA, C&CB.

i. Stmt of Sv: TMS: (3) Yrs (7) Mos (16) Das
TAMS: (3) Yrs (5) Mos (15) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 6 May 04.
(Change Discharge to Honorable)

ISSUES ATTACHED TO BRIEF.

ATCH

1. Applicant's Issues.
2. Character Reference.

15JUN04/ia

B/AA

FD2004-00171

APPLICATION FOR THE REVIEW OF DISCHARGE FROM THE ARMED FORCES OF THE UNITED STATES

(Please read instructions on Pages 3 and 4 BEFORE completing this application.)

Form Approved
OMB No. 0704-0004
Expires Aug 31, 2006

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Services and Communications Directorate (0704-0004). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

1. APPLICANT DATA *(The person whose discharge is to be reviewed).* PLEASE PRINT OR TYPE INFORMATION.

| | | | | | | |
|---|--|--|----------------------------|------|--|-------------|
| a. BRANCH OF SERVICE <i>(X one)</i> | | ARMY | MARINE CORPS | NAVY | <input checked="" type="checkbox"/> AIR FORCE | COAST GUARD |
| b. NAME <i>(Last, First, Middle Initial)</i> | | | c. GRADE/RANK AT DISCHARGE | | d. SOCIAL SECURITY NUMBER | |
| [REDACTED] | | | E-3 | | [REDACTED] | |
| 2. DATE OF DISCHARGE OR SEPARATION <i>(YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)</i> | | 4. DISCHARGE CHARACTERIZATION RECEIVED <i>(X one)</i> | | | 5. BOARD ACTION REQUESTED <i>(X one)</i> | |
| 20030912 | | <input checked="" type="checkbox"/> HONORABLE | | | <input checked="" type="checkbox"/> CHANGE TO HONORABLE | |
| | | <input checked="" type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS | | | CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS | |
| | | UNDER OTHER THAN HONORABLE CONDITIONS | | | CHANGE TO UNCHARACTERIZED <i>(Not applicable for Air Force)</i> | |
| 3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION | | BAD CONDUCT <i>(Special court-martial only)</i> | | | CHANGE NARRATIVE REASON FOR SEPARATION TO: | |
| 97 OSS Altus AFB OK, 73523 | | UNCHARACTERIZED | | | | |
| | | OTHER <i>(Explain)</i> | | | | |

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST *(Continue in Item 14. See instructions on Page 3.)*

I feel I was pressured into taking the Discharge by my commander and first sergeant. Counsel was available to me but the focus seemed to be Discharge. The only supporting documents I have is a letter from my former supervisor, Who has told me after the Discharge he felt I was wronged by the senior leadership in our squadron during the Discharge process.

7. *(X if applicable)* AN APPLICATION WAS PREVIOUSLY SUBMITTED ON *(YYYYMMDD)*

AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: *(Continue in Item 17. If military documents or medical records are relevant to your case, please send copies.)*

My personal account and request for Discharge to be changed
Letter from my former supervisor

9. TYPE OF REVIEW REQUESTED *(X one)*

| | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR <i>(counsel/representative)</i> WILL NOT APPEAR BEFORE THE BOARD. |
| <input type="checkbox"/> | I AND/OR <i>(counsel/representative)</i> WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA. |
| <input type="checkbox"/> | I AND/OR <i>(counsel/representative)</i> WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO <i>(enter city and state)</i> <i>(NOTE: The Navy Discharge Review Board does not have a traveling panel.)</i> |

| | | | |
|--|--|--|--|
| 10.a. COUNSEL/REPRESENTATIVE <i>(If any)</i> NAME <i>(Last, First, Middle Initial)</i> AND ADDRESS <i>(See Item 10 of the instructions about counsel/representative.)</i> | | b. TELEPHONE NUMBER <i>(Include Area Code)</i> | |
| | | c. E-MAIL | |
| | | d. FAX NUMBER <i>(Include Area Code)</i> | |

11. APPLICANT MUST SIGN IN ITEM 13.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name *(print)* and relationship by marking a box below.

| | | | | | | | | | | | |
|--------------------------|--------|--------------------------|-------|--------------------------|---------|--------------------------|-------------|--------------------------|----------------------|--------------------------|------------------------|
| <input type="checkbox"/> | SPOUSE | <input type="checkbox"/> | WIDOW | <input type="checkbox"/> | WIDOWER | <input type="checkbox"/> | NEXT OF KIN | <input type="checkbox"/> | LEGAL REPRESENTATIVE | <input type="checkbox"/> | OTHER <i>(Specify)</i> |
|--------------------------|--------|--------------------------|-------|--------------------------|---------|--------------------------|-------------|--------------------------|----------------------|--------------------------|------------------------|

| | | | |
|---|--|--|--|
| 12.a. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON ABOVE <i>(Forward notification of any change in address.)</i> | | b. TELEPHONE NUMBER <i>(Include Area Code)</i> | |
| [REDACTED] | | [REDACTED] | |
| | | c. E-MAIL N/A | |
| | | d. FAX NUMBER <i>(Include Area Code)</i> | |

13. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. *(U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)*

| | | | | |
|---|--|---|--|---|
| a. SIGNATURE - REQUIRED <i>(Applicant or person in Item 11 above)</i> | | b. DATE SIGNED - REQUIRED <i>(YYYYMMDD)</i> | | CASE NUMBER <i>(Do not write in this space.)</i> FD2004-00171 |
| [REDACTED] | | 6-May-04 | | |

To: The Discharge Review Board
Subject: Discharge Review
From: [REDACTED]

5-May-2004

The reasons I feel that my discharge should be upgraded to an honorable.

I know that I may have made some questionable choices in my short military career and that I and only I can be held responsible for my actions. I only ask that my youthful decisions not hinder me for the rest of my life. I was once asked if I regretted any decision that I have made in my life, my answer to that question is yes, that I would have stood up for my self during the discharge process.

The first incident that I was involved in when I joined the USAF was when I was in Air Traffic Control School, Which I graduated in the top ten percent. Some classmates and I visited New Orleans for a weekend and most of us were underage but still we had some alcoholic beverages. About a month after we returned to Keesler Air Force Base and with out incident, one of the Airman that was with us was caught stealing from other airmen in our squadron and he felt if he produced the tape of us drinking in New Orleans he would receive a lighter sentence. Of the group that went on the trip, five of the Airman including me was on the video tape drinking alcohol. One other Airman besides me stood up to the charges and admitted we were consuming alcohol. The others lied and were not charged even though they were clearly seen drinking alcohol on the tape. I received an article 15 and was sentenced to correctional custody for 30 days for underage drinking based on a one month old video tape

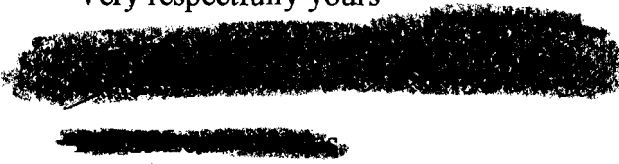
The second incident that I was involved in was again my fault. I had just graduated my second tech school, Aerospace Physiology and was on my back from San Antonio Texas to Altus AFB in Oklahoma. I had stopped in to see some old friends and have a couple of beers at the local bar at the age of 21. After being there for an hour or so I became tired and left to go back to the base. I made it onto the base with no problem and then proceeded to my dorm room. I was approached by a security forces Airman for tapping the parking lot cement tire stop with my truck tire. He administered the field sobriety test. I was taken to the local police station in Altus city. I registered a .013 and was charged with a DUI. I received an article 15 with a stripe removed and was confined to the base for 30 days and 45 days of extra duty, lost my license for 1 year on base as well as 6 months off base and was ordered to attend the ADAP program (which I successfully completed). Ever since then, and until my departure from the USAF in Sept 2003, I became the unofficial point of contact for every incident that involved airmen in the dorms. I would be pulled in to face the commander to talk about the Airmen, he would ask me if I knew what the airman in the barracks were doing and if any illegal things were going on.

My duty as a member of the USAF was to report any wrong doing, after many closed door sessions I felt used, when I refused to tell him what was going on he offered me a

Discharge. I did not want to leave but I felt that it would be in my best interest to separate. I received a General Discharge under Honorable Conditions.

I know I made my mistakes, but there were also many others that did worse things than me and were aloud to say in. Since my separation I have worked two jobs, assisted the youth of Utah in Civil Air Patrol, have not been in any trouble and feel I have been a great asset to my community. I have also paid back the debt in-full for the remainder of my initial enlistment bonus of over 2,400 dollars. I would like to ask that you upgrade my discharge so as not to hinder me in the rest of my life's pursuits. I have learned a great and many lessons from my time in the United States Air force that I have carried over to my new civilian career. Please consider this request. If you do this to help me it would further me in my continuing efforts of to grow and maintain my self as a productive successful member of society. I was not convicted by means of a Military Court-Martial. Please review my personnel record and please consider upgrading my discharge to Honorable.

Very respectfully yours

A large, dark, irregularly shaped redacted area covering the signature and possibly the name of the sender. It consists of two main horizontal smudges, one above the other, with some smaller marks below.



DEPARTMENT OF THE AIR FORCE
97th AIR MOBILITY WING
ALTUS AIR FORCE BASE OKLAHOMA

FD 2004-00171

MEMORANDUM FOR AIG [REDACTED]

AUG 21 2003

FROM: 97 OSS/CC

SUBJECT: Notification Letter

1. I am recommending your discharge from the United States Air Force for unsatisfactory duty performance. The authority for this action is AFPD 36-32 and AFI 36-3208, chapter 5, section 5E, paragraph 5.26.1. If you are discharged your service may be characterized as honorable or general. I am recommending that your service be characterized as general.
2. My reason for this action is on or about 29 Jul 03, 97 AMW/CC, then Col [REDACTED] recommended that you be separated from the United States Air Force in accordance with AFI 36-2626, Airman Retraining Program. For this reason, this discharge package has been initiated.
3. Other data:
 - a. On or about 19 Jan 03, you exercised poor judgment when you allowed a fellow service member to operate a vehicle after he had been drinking. For this misconduct, you received a Record of Individual Counseling.
 - b. On or about 28 Sep 02, you physically controlled a vehicle while drunk. For this misconduct, you received an Article 15.
 - c. On or about 3 Jul 00, you failed to refrain from drinking alcoholic beverages while under the age of 21. In addition, on or about 3 Jul 00, you failed to complete a travel itinerary prior to departing the local area. For these instances of misconduct, you received an Article 15.
4. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander exercising SPCM jurisdiction or a 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. If you are discharged, you will be ineligible for reenlistment in the Air Force and any special pay, bonus, or education funds may be subject to recoupment. Additionally, if discharged, you will probably be precluded from enlistment in any component of the armed forces.
5. You have been scheduled for an initial separation briefing with MPF Separations. You must report to Bldg 52, at 1100 on 21 Aug 03.

6. 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 the Area Defense Counsel at Building 52 on waived at _____ . You may consult civilian counsel at your own expense.

7. You have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me by 26 Aug 03 (3 duty days) unless you request and receive an extension for good cause shown. I will send them to the separation authority.

8. 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.

9. You have been scheduled for a medical examination. You must report to the base hospital, physical exams, at 1250 on 21 Aug 03.

10. 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 unit orderly room.

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



Lt Col, USAF

Commander

Attachments:

1. Supporting Documents
 - a. 97 AMW/CC approval letter, dated 29 Jul 03
 - b. RIC w/atch, dated 22 Jan 03
 - c. Article 15 w/atch, dated 18 Oct 02
 - d. Article 15 w/atch, dated 7 Sep 00
2. Member's Receipt of Notification Letter