

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>	GRADE AB	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW								
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YES	No										
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MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOTHC	OTHER	DENY
<div style="border: 1px dashed black; height: 100px; width: 100%;"></div>					X
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ISSUES A94.53 A93.01	INDEX NUMBER A67.50	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="2" style="padding: 5px;">EXHIBITS SUBMITTED TO THE BOARD</th> </tr> <tr> <td style="padding: 2px; text-align: center;">1</td> <td style="padding: 2px;">ORDER APPOINTING THE BOARD</td> </tr> <tr> <td style="padding: 2px; text-align: center;">2</td> <td style="padding: 2px;">APPLICATION FOR REVIEW OF DISCHARGE</td> </tr> <tr> <td style="padding: 2px; text-align: center;">3</td> <td style="padding: 2px;">LETTER OF NOTIFICATION</td> </tr> <tr> <td style="padding: 2px; text-align: center;">4</td> <td style="padding: 2px;">BRIEF OF PERSONNEL FILE</td> </tr> <tr> <td></td> <td style="padding: 2px;">COUNSEL'S RELEASE TO THE BOARD</td> </tr> <tr> <td></td> <td style="padding: 2px;">ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE</td> </tr> <tr> <td></td> <td style="padding: 2px;">TAPE RECORDING OF PERSONAL APPEARANCE</td> </tr> </table>	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 25 May 2006	CASE NUMBER FD-2005-00394	
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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 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

Names and votes will be made available to the applicant at the applicant's request.

SIGNATURE OF RECORDER <div style="border: 1px dashed black; height: 30px; width: 100%;"></div>	SIGNATURE OF BOARD PRESIDENT <div style="border: 1px dashed black; height: 30px; width: 100%;"></div>
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INDORSEMENT		DATE: 5/30/2006
TO: SAE 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-2005-00394

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 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.

ISSUE: Applicant received a General discharge for Misconduct and Unsatisfactory Performance – Failure to Progress in OJT

Issue 1. Applicant contends he is trying to pursue his college degree, he paid into the Montgomery GI Bill and should be entitled to it, and he can't afford college on his own and needs financial help. The DRB noted when the applicant applied for these benefits, he signed a statement that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits is having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

Issue 2. Applicant contends during his military career, he made some bad decisions, he was young and dumb and didn't have a family yet, and he now has a family and purpose, currently works for Social Security, and has a career and wants to continue to grow. The records indicated the applicant received an Article 15 for willfully using his AMEX card while not on official TDY and then making a false official statement, a Special Court Martial Conviction for writing numerous bad checks, and he twice failed his CDC EOC test. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. Although the DRB was pleased to see the applicant was doing well and has a good job, the Board concluded the misconduct was a significant departure from conduct expected of all military members, and the characterization of the discharge received by the applicant was found to be appropriate.

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(E3))

FD-2005-00394

1. MATTER UNDER REVIEW:

Appl rec'd a GENERAL from Lackland AFB, TX on 01 Jul 1997 UP AFI 36-3208, para 5.50 and 5.26.3 (Misconduct and Unsatisfactory Performance - Failure to Progress in On-The-Job-Training). Appeals for Upgrade Discharge

2. BACKGROUND:

- a. DOB: Enlmt Age: Disch Age: Educ: High School
AFQT: A-95 E-70 G-52 M-44
PAFSC: 3M031 - Services Apprentice
- b. Prior Sv: 24 Jun 94 - 3 Aug 94 (1 month 11 days)(Inactive)

3. SERVICE UNDER REVIEW:

- a. Enld as AB on 24 Jun 1994 for 4Years
- b. Grade Status: AB - 5 Jan 97 (SPCMO#5, 27 Jan 97)
 Amn - 16 Jul 96 (Article 15, 16 Jul 96)
 A1C - 4 Jun 96
 Amn - Unknown
- c. Time Lost: 3 Jan 97 thru 26 Jan 97 (24 days).
- d. Art 15's: (1) 16 Jul 96, Lackland AFB, TX - Article 92. You, who knew of your duties, at or near San Antonio, Texas, on divers occasions between on or about 22 Apr 96 and on or about 18 May 96, were derelict in the performance of those duties in that you willfully used your American Express Card, while not on official temporary duty, as it was your duty not to do. You, did, at or near Lackland AFB, Texas, on or about 5 Jun 96, with intent to deceive, make to MSgt Ernest F. Serrato, an official statement, to wit: you had not made any charges on your American Express Card in the San Antonio area and you believed there was another card that someone had obtained and was making the charges, or words to that effect, which statement was totally false, and was then known by you to be so false. Reduction to Airman, and 15 days extra duty. (No appeal) (No mitigation)

- e. Additional: RIC, 11 SEP 95 - Financial irresponsibility.
 LOR, 03 OCT 95 - Failure to follow orders.
 LOR, 14 NOV 95 - Financial irresponsibility.
 LOR, 03 JUL 96 - Fleeing the scene of an accident.
 LOC, 07 AUG 96 - Financial irresponsibility.
 LOC, 07 AUG 96 - Dereliction of duty.
 ROE, 04 NOV 96 - Failure of CDC End of Course Exam. Termination of Course Enrollment.
 ROE, 26 AUG 96 - Failure of CDC End of Course Exam.
- f. Court Martial: Special Court Martial Order No.5 - 27 Jan 97
- CHARGE: Article 123a. Plea: NG, but G of a violation of Article 134. Finding: G.
- Specification: Wrongfully and unlawfully, with intent to defraud, make and utter to the Army and Air Force Exchange Service, eleven worthless checks of a total amount of \$2222.18, drawn upon the National Bank of Texas, on divers occasions, between on or about 18 Aug 96 and on or about 7 Sep 96. Plea: Guilty of the lesser included offense of making and uttering worthless checks, by dishonorably failing to maintain sufficient funds in his checking account. Finding: Guilty of the lesser included offense of making and uttering worthless checks by dishonorably failing to maintain sufficient funds in his checking account. Sentence adjudged on 3 Jan 97: Confinement for 30 days, reduction to
- g. Record of SV: 4 Aug 94 - 3 Apr 96 Lackland AFB 4 (Initial)
- h. Awards and Decs: AFOUA W/2 BOLCS, NDSM, AFTR.
- i. Statement of Sv: TMS: 3 years 0 months 8 days
 TAMS: 2 years 11 months 2 days

4. BASIS ADVANCED FOR REVIEW:

I'm currently trying to persue my college degree. I paid into the Montgomery GI Bill and I should be entitled. During my military career I made some bad decisions. I was young, dumb and didn't have a family yet. Now I do have a family and a purpose. I currently work for Social Security now. I have a career and I want to continue to grow. I can't afford college on my own and I need some financial help. In order to be entitled to the GI Bill I need an Honorable Discharge. I need your help.

ATCH

1. Leave and Earnings Statement.
2. Trainee Evaluation Form.

28NOV05/ia



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

MEMORANDUM FOR AB

30 MAY 1997

FROM: 37 SVS/CC

SUBJECT: Addendum to Notification Memorandum dated 30 Apr 97

1. On 30 Apr 97, you were notified that I was recommending that you be discharged from the United States Air Force for **Unsatisfactory Duty Performance for failure to progress in on-the-job training and A Pattern of Misconduct** according to AFPD 36-32 and AFI 36-3208, paragraphs 5.26.3 and 5.50. The reason remains the same, but your Notification Memorandum should have stated that the primary reason for discharge is paragraph 5.50, A **Pattern of Misconduct**. The commander exercising SPCM jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force.
2. You still have the right to counsel. Military Legal Counsel has been obtained for you. I have made an appointment for you to consult ADC at Building Number 1000, on 02 JUN 1997 at 0900 hours. You may consult civilian counsel at your expense. If employed, civilian counsel must be readily available.
3. You still have the right to submit statements in your own behalf. Any statements you want the separation authority to consider must reach me within **three** workdays, unless you request and receive an extension for good cause shown. I will send them to the separation authority.
4. 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.
5. 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 unit Orderly Room.
6. Execute the attached acknowledgment and return it to me immediately.

Commander

Attachment

Airman's Receipt of Addendum to Notification Memorandum



DEPARTMENT OF THE AIR FORCE
AIR EDUCATION AND TRAINING COMMAND

30 APR 1997

MEMORANDUM FOR AB [REDACTED]

FROM: 37 SVS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for Pattern of Misconduct, and Unsatisfactory Performance, failure to progress in on the job training. The authority for this action is AFD 36-32 and AFI 36-3208, paragraph 5.50, and 5.26.3. If my recommendation is approved, your discharge will be described as an honorable or under honorable conditions (general) and you will be ineligible for reenlistment in the Air Force.

2. My reasons for this action are:

a. On diverse occasions, between on or about 22 Apr 96 and on or about 18 May 96, you were derelict in the performance of your duties in that you willfully used your American Express card, while not on official temporary duty, in a total amount of \$1800, for which you received Article 15 punishment on 16 Jul 96 consisting of reduction to E-2 (Airman) and 15 days extra duty.

b. On diverse occasions, between on or about 18 Aug 96 and on or about 17 Sep 96, with intent to defraud and for the procurement of lawful currency and other things of value, wrongfully and unlawfully made and uttered to the Army Air Force Exchange Service, eleven checks upon the Nations Bank of Texas in the total amount of \$2,222.18. As the maker of those checks, you knew that you did not or would not have sufficient funds in or credit with said bank for payment of these checks in full upon their presentment. On 3 Jan 97 you plead guilty to violating Article 134, worthless uttering of checks by dishonorably failing to maintain sufficient funds, and you were in fact found guilty. For this you received a reduction to E-1 (Airman basic), 30 days confinement, and 3 months hard labor without confinement.

c. Second failure in Career Development Course, end-of-course test. On 26 Aug 96, you received a score of 62 percent, when the passing score was 65 percent. This constituted your first failure. On 4 Nov 96, you received a score of 58 percent, when the passing score was 65 percent. This constituted your second failure.

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.

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 the Area Defense Counsel (ADC) at Bldg 7024 2nd floor on 01 MAY 1997 at 0800. You may consult civilian counsel at your own expense.

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 (allow 3 workdays) 05 MAY 1997 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.

6. 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 unit orderly room.

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

Commander

Attachments:

1. AF Form 3070, 16 Jul 96
2. AF Form 1359, 3 Jan 97
3. AF Form 174, 11 Sep 95 w/atch
4. LOR, 3 Oct 95
5. LOR, 14 Nov 95
6. Ltr dated 17 Nov 95 from Commander
7. LOR, 3 Jul 96
8. LOC, 7 Aug 96
9. LOC, 7 Aug 96
10. CDC End of Course Results, 26 Aug 96
11. Undated Ltr from Dr: _____ w/atchs
12. CDC End of Course Results, 4 Nov 96