



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BAN
Docket No. 11374-09
24 March 2010

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) NPC memo 1430 Ser 811/766 of 24 Nov 09
(3) NAVPERS 1616/26 for period 1 Feb 07-15 Jul 07
(4) Excerpt from BUPERS Instruction 1430.16F
(5) CO, Strike Fighter Squadron EIGHT SIX ltr
1430 Ser 00/074 of 2 Sep 09
(6) Admin Officer, Strike Fighter Squadron EIGHT SIX ltr
1430 Ser 10/004 of 17 Aug 09
(7) Service Record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show advancement to E-4/YN3 from the March 2008 Navy-wide advancement exam.

2. The Board, consisting of Messrs. Pfeiffer, Zsalman, and George, reviewed Petitioner's allegations of error and injustice on 19 January 2010 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies. The Board also considered an advisory opinion furnished by the Naval Personnel Command (NPC) attached as enclosure (2) that recommended no relief be granted.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. In June 2007, Petitioner was a Yeoman Seaman (E-3) attached to the Strike Fighter Squadron EIGHT SIX. On 30 June 2007, Chief Warrant Officer-3 [REDACTED] checked into the unit and became Petitioner's new reporting senior for evaluation report purposes. [REDACTED] signed Petitioner's next regularly scheduled evaluation with only 15 days of observation. That evaluation, for the period ending on 15 July 2007, rated Petitioner as "Promotable." Petitioner was apprised of his evaluation and elected not to submit a statement, enclosure (3).

c. Over the next six months, [REDACTED] closely observed Petitioner performing in a superior manner. Over time, [REDACTED] came to the conclusion that his evaluation for the period ending on 15 July 2007 had been overly severe. He attributed the error to the short observation period and his over-reliance on input provided by Petitioner's senior rater, [REDACTED]

d. With semi-annual advancement examinations approaching, in an effort to give credit for Petitioner's superior performance, [REDACTED] prepared a special evaluation for Petitioner with an ending period of 31 January 2008. [REDACTED] markings gave Petitioner a performance mark average of 4.0 ("early promote") prior to the March 2008 advancement cycle examination. [REDACTED] intended to raise Petitioner's Performance Mark Average (PMA) to make Petitioner more competitive for advancement to E-4. However, BUPERS Instruction 1430.16F which governs Navy-wide advancements states that "Evaluations prepared for the sole purpose of raising the PMA (where an evaluation is available for computation)" are not to be used to compute PMA. See enclosure (4).

e. In March 2008, Petitioner was eligible to participate in the Navy-wide advancement exam. Prior to taking the exam, he signed his advancement worksheet which reflected his PMA of 3.6. Note, in accordance with the governing instruction, the special evaluation had not been factored into his PMA.

f. Petitioner was not advanced as a result of the March 2008 exam cycle. Upon reviewing the final advancement results, [REDACTED] noted that the special evaluation had not been factored into Petitioner's PMA. He believed that an error

occurred which gave Petitioner an incorrect final PMA score and resulted in Petitioner's failure to advance. Note: If the special evaluation had been factored into Petitioner's PMA before the examination, Petitioner would have reached the Final Multiple Score necessary to advance from the March 2008 Navy-wide advancement cycle.

g. In February 2009, Petitioner submitted a request to the Board for Corrections of Naval Records (BCNR), with the commanding officer's endorsement, seeking advancement to pay-grade E-4/YN3 from the March 2008 active duty exam. [REDACTED] submitted a favorable statement to BCNR on the Petitioner's behalf as part of Petitioner's request. See enclosures (5) and (6).

h. By enclosure (2), the Naval Personnel Command recommends that no relief be granted. They reason that the PMA was computed correctly because BUPERS Instruction 1430.16F clearly states that "special evaluations not previously computed into a candidate's PMA may not be used to change a PMA, irrespective of the period covered in the evaluation or the date the evaluation was signed. There are no waivers to this policy."

CONCLUSION:

Upon review and consideration of all the evidence of the record, the Board concludes that Petitioner's request warrants favorable action. The Board carefully considered the comments included in enclosure (2) to the effect that a special evaluation cannot be used for the purpose of raising Petitioner's PMA. However, the Board noted that the special evaluation was completed just after return from an extended deployment and it reflected performance based on close observation during that deployment. Thus, the Board concluded that the evaluation was not solely to increase Petitioner's PMA for advancement purposes. Moreover, in light of Petitioner's strong performance and the endorsement from his commanding officer, the Board concluded that the PMA of the special evaluation should be factored in for purposes of advancement as an exception to the normal policy. Accordingly, the Board concludes that the record should be corrected to show that Petitioner advanced to E-4/YN3 from the March 2008 Navy-wide advancement exam.

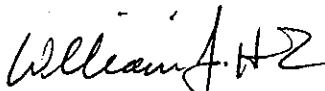
RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:


a. Petitioner is advanced to E4/YN3 effective 16 September 2008, with a Time In Rate date of 1 July 2008.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.


ROBERT D. ZSALMAN
Recorder


WILLIAM J. HESS, III
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.


W. DEAN PFEIFFER
Executive Director

Reviewed and approved:


Assistant General Counsel
(Manpower and Reserve Affairs)

4/1/10