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

BJG
Docket No: 11554-09
24 December 2009

[REDACTED]

De [REDACTED]

This in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

You requested removal of the Headquarters Marine Corps Routing Sheet (NAVMC HQ 335 Rev. 06-03) dated 13 June 2005 with enclosures.


A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 December 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion from Headquarters Marine Corps, dated 21 October 2009, a copy of which is attached. The Board also considered your rebuttal letter dated 2 December 2009 and your two e-mails dated 2 December 2009, both with attachments.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the

advisory opinion. The Board noted that the dismissal by civil authorities of charges against you did not establish that no misconduct had occurred. The Board was unable to find the contested material was incorrect in stating you entered a guilty plea, noting that enclosure (6) to the Report of Disposition for Misconduct dated 3 March 2005 supports this statement. Finally, the Board found the advisory opinion correctly cited Marine Corps Order P1070.12K, paragraph 4.c, for the provision that all relevant "adverse matter," defined as "Any document that reflects unfavorably upon a Marine's mental, moral or professional qualifications," is filed in the Official Military Personnel File, subject to rules stated elsewhere in the paragraph. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,


W. DEAN PFEIFFER
Executive Director

Enclosure