



UNITED STATES MARINE CORPS
MARINE CORPS COMBAT DEVELOPMENT COMMAND
QUANTICO, VIRGINIA 22134-5001

IN REPLY REFER TO:

1920

C 06

AUG 27 2009

From: Commanding General, Marine Corps Combat Development
Command
To: Lieutenant Colonel Jeffrey R. Chessani XXX XX 0792/0302
USMC
Via: Commanding General, Marine Corps Installations West
Subj: NOTIFICATION OF BOARD OF INQUIRY
Ref: (a) SECNAVINST 1920.6C
(b) LEGADMINMAN
(c) CMC ltr 5800 JAM1 of 6 Jun 09
(d) LtCol Chessani DC fitrep 20060401-20060407
(e) Article 32 Investigation
Encl: (1) Haditha Reporting/Investigating Allegations
(2) Rights of a Respondent
(3) Acknowledgment of Notice

1. Pursuant to references (a) through (c), you are notified that a Board of Inquiry will be convened to make a recommendation on your retention in the U.S. Marine Corps based on the information contained in references (d) and (e), as well as the allegations articulated in enclosure (1). The specific reasons for separation to be considered by the Board are substandard performance of duty, misconduct, and professional dereliction as evidenced by one of the following:

a. Failure to demonstrate acceptable qualities of leadership required of an officer of your grade;

b. Failure to properly discharge duties expected of an officer of your grade and experience;

c. Commission of a military or civilian offense which could be punished by confinement of 6 months or more and any other misconduct which would require specific intent for conviction; and

2. The Board of Inquiry will make the following determinations, by majority vote, based on evidence presented at the hearing:

a. A finding on the reason(s) for separation. This finding is based on a preponderance of the evidence standard; and

Subj: NOTIFICATION OF BOARD OF INQUIRY

b. One of the following:

(1) If the board finds that one or more of the reasons for separation are supported by sufficient evidence to warrant separation, it may recommend your retirement; or

(2) If the board finds that the reasons for separation are not supported by sufficient evidence to warrant separation for cause, your case will be closed.

c. Because you are a retirement-eligible officer, if your retirement is recommended, the Board shall also recommend whether you should be retired in the current grade or a lesser grade. The Board must recommend the grade in which you last served satisfactorily.

3. The Board determination is merely a recommendation and the final decision as to retirement grade rests with the Secretary of the Navy.

4. You have 30 days in which to prepare your case. As the respondent, you are entitled to exercise the rights set forth in enclosure (2): Your failure to invoke any of these rights will not be considered as a bar to the Board of Inquiry proceedings.

5. This letter is the notice required by reference (a). I will convene the Board of Inquiry. You will be notified of the names of the board members and of the date and location of the hearing in the convening order. Until convened, any request to continue the Board must be submitted to me. After the Board has convened, the senior member and/or legal advisor may rule on such requests.

6. You are directed to acknowledge this notification by completing enclosure (3) and returning it to this command (SJA) within 5 working days of receipt.


GEORGE J. ELYNN

Copy to:
SJA
Files

ALLEGATIONS ICO LTCOL CHESSANI

Violation of the UCMJ, Article 92

Specification 1: In that Lieutenant Colonel Jeffrey R. Chessani, U.S. Marine Corps, on active duty, did, on divers occasions, at or near Haditha, Iraq, from about 19 November 2005 to about 12 February 2006, violate a lawful general order, to wit: Marine Corps Order 3300.4, dated 20 October 2003, in that Lieutenant Colonel Chessani wrongfully failed to accurately report and thoroughly investigate an alleged violation of the law of war that included the killing of women and children by Marines under his command on or about 19 November 2005 in Haditha, Iraq, said allegation of a law of war violation and demand for immediate investigation having been for the killing of said unarmed woman and children being personally communicated to Lieutenant Colonel Chessani, both verbally and in writing, by multiple leaders of the city of Haditha on 27 November 2005 at a meeting held at the Kilo company Firmbase, in Haditha, Iraq.

Specification 2: In that Lieutenant Colonel Jeffrey R. Chessani, U.S. Marine Corps, on active duty, who knew of his duties as a battalion commander, was derelict in the performance of his duties at or near Haditha, Iraq, from about 19 November 2005 to about 12 February 2006, in that he was aware of his duty to report accurately the facts and circumstances relating to the death of approximately twenty-four (24) persons on 19 November 2005 as well as any allegations that these deaths resulted from violations of the law of war, and he

- a. willfully failed to report through the Journal Entry Note reporting process that Marines under his command had engaged and killed approximately eighteen (18) unarmed men, women, and children inside three (3) separate residential structures located near the intersection of Routes Chestnut and Viper on 19 November 2005 at or near Haditha, Iraq;
- b. willfully failed to correct, update or supplement JEN 20-007 after he became aware JEN 20-007 was inaccurate in that JEN 20-007 reported fifteen (15) NKIA as a result of passing by an IED detonation and as a result of a subsequent crossfire engagement between Anti Iraqi Forces (AIF) and Coalition Forces (CF) when Marines under his command had engaged and killed approximately fourteen (14) persons inside two (2) separate residential structures located near the intersection of Routes Chestnut and Viper on 19 November 2005 at or near Haditha, Iraq;
- c. willfully failed to accurately report to higher headquarters that the death of approximately twenty-four (24) persons on 19 November 2005 constituted a possible or suspected violation of the law of war;
- d. willfully failed to accurately report to higher headquarters that the death of approximately twenty-four (24) persons on 19 November

ALLEGATIONS ICO LTCOL CHESSANI

2005 was the basis for allegations that Marines under his command violated the law of war; said allegations of a law of war violation for the killing of unarmed woman and children being personally communicated to Lieutenant Colonel Chessani, both verbally and in writing, by multiple leaders of the city of Haditha on 27 November 2005 at a meeting held at the Kilo company Firmbase, in Haditha, Iraq; and,

- e. willfully failed to direct a thorough investigation into the death of approximately twenty-four (24) persons on 19 November 2005,

as it was his duty to do.

RIGHTS OF A RESPONDENT

(a) The Respondent shall be given the following rights, which may be exercised or waived:

(1) 30 days to prepare his or her case with reasonable additional time, as determined necessary by the Board of Inquiry. The respondent may, for good cause, further petition the convening authority in a timely manner, for a continuance.

(2) The right to counsel, as provided in paragraph (b) below.

(3) The opportunity to present matters in his or her own behalf. If suspected of an offense, the officer should be warned against self-incrimination under Article 31, UCMJ, before testifying as a witness. Failure to warn the officer shall not preclude consideration of the testimony of the officer by the Board of Inquiry.

(4) Full access to, and copies of, records relevant to the case, except that information or material shall be withheld if the show-cause authority determines that such information should be withheld in the interest of national security. When information or material is so withheld, a summary of the information or material will be provided to the extent that the interests of national security permit.

(5) The names of all witnesses in advance of Board of Inquiry proceedings. Failure to provide any information or the name of a witness shall not preclude the Board from considering the information or hearing the witness, provided the respondent has had the opportunity to examine any statement, or talk with any witness presented, prior to consideration by the Board of Inquiry.

(6) The right to challenge any member for cause. The respondent may submit to the convening authority for appropriate action, any relevant matter which, in his or her view, indicates that a particular member or members should not consider the case. A member shall be excused if found by the convening authority or the legal advisor to be unable to render a fair and impartial decision in the respondent's case. If such an excusal results in the membership of the Board falling below the number required, the convening authority shall appoint a new member who is qualified. Such new member may be challenged in the same manner as the member who was previously appointed and excused.

(7) The right to request from the convening authority or the Board of Inquiry the appearance before the Board of any witness whose testimony is considered to be pertinent to the case, as provided in paragraph 9 of SECNAVINST 1920.6C.

(8) The right to submit, at any time before the Board convenes or during the proceedings, any matter from the respondent's service record, letter answers, depositions, sworn or unsworn statements, affidavits, certificates, or stipulations. This includes, but is not limited to, depositions of witnesses not deemed to be reasonably available or witnesses unwilling to appear voluntarily.

(9) The respondent and counsel may question any witness who appears before the Board of Inquiry. Testimony of witnesses shall be under oath or affirmation.

(10) The right to give sworn or unsworn testimony. The respondent may only be examined on sworn testimony. The respondent should be warned against self-incrimination as required by Article 31, UCMJ. Failure to so warn the respondent shall not preclude consideration of the testimony by the Board of Inquiry.

(11) The respondent or counsel may present argument on the matter to the Board.

(12) The respondent shall be provided with a copy of the record of the proceedings in the case and a copy of the findings and recommendations of the Board. In cases involving classified matter withheld in the interests of national security, any record or information to be provided the respondent will be edited prior to delivery to him or her to remove classified material and preserve its integrity.

(13) The respondent may submit a statement in rebuttal to the findings and recommendations of the Board of Inquiry for consideration of the Secretary of the Navy.

(14) The respondent may appear in person, with or without counsel, at all open proceedings of the Board.

(15) Failure of the respondent to invoke any of these rights shall not be considered as a bar to the Board of Inquiry proceedings, findings, or recommendations.

(b) Counsel

(1) Respondent is entitled to have appointed as counsel by the convening authority, a lawyer certified per Article 27(b)(1), UCMJ.

(2) Respondent may request military counsel of his or her choice provided the requested counsel is reasonably available.

(3) The determination as to whether individual counsel is reasonably available shall be made per the procedures set forth in Section 0131 of JAGINST 5800.7C, "Manual of the Judge Advocate General" for determining the availability of Individual Military Counsel for courts-martial. Upon receipt of notice of the availability of the individual counsel, the respondent must elect between representation by appointed counsel and representation by individual counsel. A respondent may be represented in these proceedings by both appointed counsel and individual counsel only if the convening authority, in his or her sole discretion, approves a written request from the respondent for representation by both counsel; such written request must set forth in detail why representation by both counsel is essential to insure a fair hearing.

(4) Respondent may also engage civilian counsel at no expense to the government, in addition to, or in lieu of, military counsel.

(c) Waiver

(1) Respondent may waive any of the aforementioned rights before the Board of Inquiry convenes or during the proceedings. Failure to appear, without good cause, at a hearing constitutes waiver of the right to be present at the hearing. Failure to respond after being afforded a reasonable opportunity to consult with counsel constitutes a waiver of the rights in paragraph (a) of this enclosure.



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C06

From: Lieutenant Colonel Jeffrey R. Chessani XXX XX 0792/0302
USMC

To: Commanding General, Marine Corps Combat Development
Command

Subj: ACKNOWLEDGMENT OF NOTICE

Ref: (a) CG MCCDC ltr 1920 C06 dtd AUG 27 2009

1. I acknowledge that I was notified by the reference that my case will be heard by a Board of Inquiry. I understand that I have 30 days in which to prepare my case and that I am entitled to exercise the rights set forth in enclosure (1) of the reference.


J. R. CHESSANI

Date notified 28 Aug 09

Enclosure (3)