

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) WACKER, DOUGLAS S.		2. SSN 538 08 3913	3. GRADE OR RANK CAPT	4. PAY GRADE 0-3
5. UNIT OR ORGANIZATION HEADQUARTERS AND SERVICE BATTALION, MCRD, SAN DIEGO, CA			6. CURRENT SERVICE	
			a. INITIAL DATE 12 OCT 05	b. TERM Indef
7. PAY PER MONTH		8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL		
\$5358.00	NONE	\$5358.00	NONE	

II. CHARGES AND SPECIFICATIONS

CHARGE I: VIOLATION OF THE UCMJ, ARTICLE 80

Specification: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, attempt to rape Elizabeth Easley.

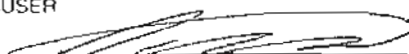
CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 120

Specification 1: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, rape Jessica Brooder.

Specification 2: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near Seattle, Washington, on or about December 2006, rape Nicole Cusack.

(CONTINUED ON SUPPLEMENTAL PAGE 1)

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI) OSPINA, JHONY A	b. GRADE SGT	c. ORGANIZATION OF ACCUSER HQSVCBN, MCRD SAN DIEGO, CA
d. SIGNATURE OF ACCUSER 		e. DATE 13 July 2009

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 13th day of July, 2009, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

ZENON W. KESKE

Typed Name of Officer

HQSVCBN, MCRD SAN DIEGO, CA

Organization of Officer

CAPTAIN

Grade

TRIAL COUNSEL

*Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)*


Signature

12.

On 14 July, 2009 the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)) (See R.C.M. 308 if notification cannot be made)

D. J. COTE
Typed Name of Immediate Commander

H&S BATTALION, SAN DIEGO, CA
Organization of Immediate Commander

CAPTAIN, U.S. MARINE CORPS
Grade

[Signature]
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 0815 hours, 14 July 2009 at H&S BATTALION, SAN DIEGO, CA
Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹ COMMANDING OFFICER

D. J. COTE
Typed Name of Officer

ADJUTANT/LEGAL OFFICER
Official Capacity of Officer Signing

CAPTAIN, U. S. MARINE CORPS
Grade

[Signature]
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE

MCRD/WRR

SAN DIEGO, CA

14 Jul 2009

Referred for trial to the GENERAL court-martial convened by GCMO #1-09

DATED 1 MARCH 2009 subject to the following instructions:² NONE

By //////////////////// Of

Command or Order

A. SALINAS
Typed Name of Officer

Official Capacity of Officer Signing

BRIGADIER GENERAL
Grade

[Signature]
Signature

15.

On _____, 20____, I (caused to be) served a copy hereof on (each of) the above named accused

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 — When an appropriate commander signs personally, inapplicable words are stricken.
2 — See R.C.M. 601(e) concerning instructions. If none, so state.

SUPPLEMENTAL CHARGE SHEET 1

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)	2 SSN	3. GRADE OR RANK	4. PAY GRADE
WACKER, DOUGLAS S.	538 08 3913	CAPT	O-3

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 133

Specification 1: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, acted in a manner unbecoming of an officer and gentlemen, to wit: by wrongfully engaging in sexual intercourse with Ms. Jessica Brooder while he knew, or should have known that Ms. Brooder was so significantly intoxicated and mentally and physically impaired as a result of said intoxication that a reasonable officer in the Naval service would have recognized that there was a substantial likelihood that she was incapable of knowingly and voluntarily consenting to sexual intercourse.

Specification 2: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, acted in a manner unbecoming of an officer and gentlemen, to wit: by wrongfully attempting to engage in sexual intercourse with Ms. Elizabeth Easley while he knew or should have known that Ms. Easley was so significantly intoxicated and mentally and physically impaired as a result of said intoxication that a reasonable officer in the Naval service would have recognized that there was a substantial likelihood that she was incapable of knowingly and voluntarily consenting to sexual intercourse.

Specification 3: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near Seattle, Washington, on or about December 2006, acted in a manner unbecoming of an officer and gentlemen, to wit: by wrongfully engaging in sexual intercourse with Ms. Nicole Cusack while he knew or should have known that Ms. Cusack was so significantly intoxicated and mentally and physically impaired as a result of said intoxication that a reasonable officer in the Naval service would have recognized that there was a substantial likelihood that she was incapable of knowingly and voluntarily consenting to sexual intercourse.

Specification 4: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near San Diego, California, between on or about November 2007 and July 2008, acted in a manner unbecoming of an officer and gentlemen, to wit: By wrongfully endeavoring to impede an investigation in the case of Captain Douglas S. Wacker, by asking Mr. Amos Lowder to speak to Ms. Nicole Cusack and tell her, a potential victim in the case, to not talk to anyone about Captain Wacker's ongoing case with Ms. Easley and Ms. Brooder, or words to that effect.

(CONTINUED ON SUPPLEMENTAL PAGE 2)

SUPPLEMENTAL CHARGE SHEET 2

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)	2. SSN	3. GRADE OR RANK	4. PAY GRADE
WACKER, DOUGLAS S.	538 08 3913	CAPT	0-3

Specification 5: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near San Diego, California, between on or about November 2007 and January 2009, acted in a manner unbecoming of an officer and gentlemen, to wit: By wrongfully endeavoring to impede an investigation in the case of Captain Douglas S. Wacker, by asking Mr. Gorman to provide false statements to Special Agent J.R. Burge, Naval Criminal Investigative Service, an investigating officer in the case of Captain Douglas S. Wacker, United States Marine Corps.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 134

Specification 1: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near San Diego, California, from about November 2007 to about January 2009, on diverse occasions, wrongfully endeavor to influence the testimony of Joseph Gorman, as a witness before Special Agent J.R. Burge, Naval Criminal Investigative Service, an investigating officer in the case of Captain Douglas S. Wacker, U.S. Marine Corps, by asking Joseph Gorman to provide false statements to the said investigating officer.

Specification 2: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near San Diego, California, from about November 2007 to about July 2009, wrongfully endeavor to impede the investigation in the case of Captain Douglas S. Wacker, U.S. Marine Corps, investigated by Special Agent J.R. Burge, Naval Criminal Investigative Service, by asking Mr. Amos Lowder to speak with Ms. Nicole Cusack, a potential victim, to keep Ms. Nicole Cusack quiet and to tell her to not talk to anyone about Captain Wacker's ongoing case with Ms. Elizabeth Easley and Ms. Jessica Brooder, or words to that effect.

Specification 3: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, commit an indecent assault upon Ms. Elizabeth Easley, a person not his wife by undressing her, kissing her neck and chest area, with the intent to gratify his sexual desires.



UNITED STATES MARINE CORPS
OFFICE OF THE STAFF JUDGE ADVOCATE
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION
3700 CHOSIN AVENUE, BUILDING 12
SAN DIEGO, CALIFORNIA 92140-5197

IN REPLY REFER TO:
5811
9D

18 JUL 2009

MEMORANDUM

From: Assistant Chief of Staff, Staff Judge Advocate
To: 4 Commanding General, MCRD/WRR San Diego, CA

Subj: ADVICE AND RECOMMENDATION CONCERNING THE CHARGES AGAINST
CAPTAIN DOUGLAS S. WACKER 3913 USMC

Ref: (a) MCM (2008 Edition)
(b) U.C.M.J
(c) JAGINST 5800.7E, Manual of Judge Advocate General

Encl: (1) Original Charge Sheet
(2) Additional Charge Sheet
(3) Article 32 Investigation of 22 Jun 09
(4) CO, HQSVCBN, MCRD/WRR ltr 5811 8D of 10 Jul 09
(5) Amended Charge Sheet
(6) General Court-Martial Convening Order #1-09 of 1 Mar 09

1. This advice is submitted in accordance with Rule for Courts-Martial 406 of reference (a) and Article 34 of reference (b). I have reviewed the enclosures pursuant to the references, and my advice follows.

2. ANALYSIS OF THE CHARGES AND SPECIFICATIONS. The accused is charged with the offenses indicated in enclosures (1) and (2). The specifications allege offenses under the punitive articles of reference (b) and, except as detailed below are warranted by the evidence indicated in enclosure (3).

a. The evidence is insufficient to go forward on the specifications listed below. I recommend that the following specifications be dismissed without prejudice for the reasons indicated:

(1) The sole specification of Charge II, willfully disobeying a superior commissioned officer by speaking with potential witnesses. There is insufficient evidence to clearly establish that the accused spoke with the witnesses in question after receiving the order from LtCol Bond.

(2) Specifications 1, 2, and 3 of Charge IV. The accused is charged with assaulting Ms. Jessica Brooder, Ms. Elizabeth Easley, and Ms. Nicole Cusack by drugging them with an intoxicant, a means likely to produce death or grievous bodily harm. The government must prove that:

Subj: ADVICE AND RECOMMENDATION CONCERNING THE CHARGES AGAINST
CAPTAIN DOUGLAS S. WACKER 3913 USMC

(a) the accused attempted, offered, or did bodily harm to a certain person, (b) that he did so with a certain means, (c) that the attempt, offer, or bodily harm was done with unlawful force or violence, and (d) that the means was used in a manner likely to produce death or grievous bodily harm.

Despite diligent efforts by the forensic experts, the government has been unable to find any admissible evidence of an intoxicant.

(3) Specification 4 of Charge V, indecent exposure. The government must prove:

(a) that the accused exposed a certain part of his body to public view in an indecent manner, (b) that the exposure was willful and wrongful, and (c) that under the circumstances the conduct was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Neither Ms. Elizabeth Easley nor Ms. Jessica Brooder has any memory of actually seeing the indecent exposure. Without their testimony on this issue, there is insufficient evidence.

(4) The sole specification under Additional Charge I, willfully disobeying a superior commissioned officer by speaking with Ms. April Tatton. The accused responded to a question that Ms. Tatton posed to a crowd in the law school bookstore regarding the location of a book. There is insufficient evidence to establish willful disobedience.

(5) Specification 5 of Additional Charge II, conduct unbecoming an officer and gentlemen in that the accused drank to excess in public. There is insufficient evidence to establish that the accused drank to excess. No witness can establish the amount of alcohol consumed or any drunken conduct.

(6) Specification 6 of Additional Charge II, conduct unbecoming an officer and a gentleman in that the accused attempted to converse with several people listed on the no contact order. There is insufficient evidence to establish guilt regarding this specification.

b. I recommend modifying Specifications 1, 2, and 7 of Additional Charge II, conduct unbecoming an officer and gentlemen by engaging in sexual contact after drugging the victims. The discussion above regarding insufficient evidence of an intoxicant applies here. I recommend that these three specifications be modified to read in pertinent part, that the accused "acted in a manner unbecoming of an officer and gentlemen, to wit: by engaging in (or attempting to engage) sexual intercourse with (name of victim) while he knew, or should have known that (name of victim) was so significantly intoxicated and mentally and physically impaired as a result of said

Subj: ADVICE AND RECOMMENDATION CONCERNING THE CHARGES AGAINST
CAPTAIN DOUGLAS S. WACKER 3913 USMC

intoxication that a reasonable officer in the Naval service would have recognized that there was a substantial likelihood that she was incapable of knowingly and voluntarily consenting to sexual intercourse."

3. JURISDICTION. A General Court-Martial would have personal and subject matter jurisdiction over the accused and each offense alleged.

4. ARTICLE 32 INVESTIGATION. Per enclosure (2), the Investigating Officer recommends trial by General Court-Martial.

5. BATTALION COMMANDER'S RECOMMENDATION. In an abundance of caution, the Commanding Officer, Headquarters and Service Battalion, MCRD/WRR San Diego has forwarded this case without recommendation. This extraordinary step was taken to avoid any potential concerns regarding her prior involvement in the case as the Staff Judge Advocate. See enclosure (4). The Special Court-Martial Convening Authority and the Investigating Officer complied with requirements of references (a) through (c).

6. RECOMMENDATION. I have directed that new charges be preferred based upon the discussion above. See enclosure (5). I recommend that the charges and specifications contained in enclosure (5) be referred to a trial by General Court-Martial convened by enclosure (6). If you concur, please sign enclosure (5) where indicated.


S. E. JACKSON

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI) WACKER, DOUGLAS S.			2. SSN 538 08 3913	3. GRADE OR RANK CAPT	4. PAY GRADE O-3
5. UNIT OR ORGANIZATION HEADQUARTERS AND SERVICE BATTALION, MCRD, SAN DIEGO, CA				6. CURRENT SERVICE	
				a. INITIAL DATE 12 OCT 05	b. TERM Indef
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED NONE	9. DATE(S) IMPOSED NONE	
a. BASIC \$5358.00	b. SEA/FOREIGN DUTY NONE	c. TOTAL \$5358.00			

II. CHARGES AND SPECIFICATIONS

CHARGE I: VIOLATION OF THE UCMJ, ARTICLE 80

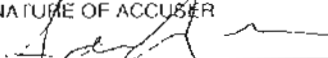
Specification: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, attempt to rape Elizabeth Easley.

CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 90

Specification: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, having received a lawful command from Lieutenant Colonel Bond, U.S. Marine Corps, acting commanding officer, Headquarters and Service Battalion, Marine Corps Recruit Depot, San Diego, California, his superior commissioned officer, then known by the said Captain Douglas S. Wacker, ^{to be his superior} ~~to~~ ^{to have} contact or speak to Ms. Elizabeth McShan or potential witnesses about the ongoing investigation involving Captain Wacker, or words to that effect, did, on diverse occasions, at or near San Diego, California on or about January 2009, willfully disobey the same. *R. H. [Signature]*

(CONTINUED ON SUPPLEMENTAL PAGE 1)

III. PREFERRAL

11a. NAME OF ACCUSEE (Last, First, MI) GUERRA, ADRIAN	b. GRADE CPL	c. ORGANIZATION OF ACCUSEE HQSVCBN, MCRD SAN DIEGO, CA
d. SIGNATURE OF ACCUSEE 		e. DATE 2/16/07

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 16th day of April, 2009, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

ZENON W. KESKE

Typed Name of Officer

HQSVCBN, MCRD SAN DIEGO, CA

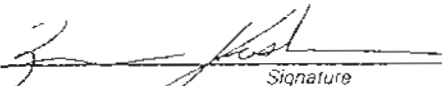
Organization of Officer

CAPTAIN

Grade

TRIAL COUNSEL

*Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)*


Signature

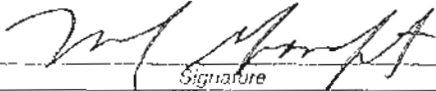
12.

On 16 APR, 20 09, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

M. C. GOODPASTURE
Typed Name of Immediate Commander

H&S BATTALION, SAN DIEGO, CA
Organization of Immediate Commander

MAJOR, U.S. MARINE CORPS
Grade


Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1658 hours, 16 APR, 20 09 at H&S BATTALION, SAN DIEGO, CA
Designation of Command or

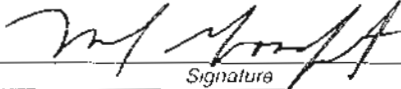
Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹ COMMANDING OFFICER

M. C. GOODPASTURE
Typed Name of Officer

S-3 OPERATIONS OFFICER
Official Capacity of Officer Signing

MAJOR, U. S. MARINE CORPS
Grade


Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE

Referred for trial to the _____ court-martial convened by _____

_____ 20 _____ subject to the following instructions ² _____ NONE

By //////////////////// *UI*

Command or Order

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

15.

On _____, 20 _____, I (caused to be) served a copy hereof on (each of) the above named accused.

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 — When an appropriate commander signs personally, inapplicable words are stricken.
2 — See R.C.M. 601(e) concerning instructions. If none, so state.

SUPPLEMENTAL CHARGE SHEET 1

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)	2. SSN	3. GRADE OR RANK	4. PAY GRADE
WACKER, DOUGLAS S.	538 08 3913	CAPT	O-3

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 120

Specification 1: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, rape Jessica Brooder.

Specification 2: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near Seattle, Washington, on or about December 2006, rape Nicole Cusack.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 128

Specification 1: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, commit an assault upon Ms. Jessica Brooder by drugging her with a means likely to produce death or grievous bodily harm, to wit: by wrongfully adding an intoxicant to her drink.

A drug *OR OTHER SIMILAR SUBSTANCE* *RIF 090420*

Specification 2: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, commit an assault upon Ms. Elizabeth Easley by drugging her with a means likely to produce death or grievous bodily harm, to wit: by wrongfully adding an intoxicant to her drink.

A drug *OR OTHER SIMILAR SUBSTANCE* *RIF 090420*

Specification 3: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near Seattle, Washington, on or about December 2006, commit an assault upon Ms. Nicole Cusack by drugging her with a means likely to produce death or grievous bodily harm, to wit: by wrongfully adding an intoxicant to her drink.

A drug *OR OTHER SIMILAR SUBSTANCE* *RIF 090420*

CHARGE V: VIOLATION OF THE UCMJ, ARTICLE 133

Specification 1: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, acted in a manner unbecoming of an officer and gentlemen, to wit:

By assaulting Ms. Jessica Brooder by wrongfully drugging her by adding an intoxicant to her drink which was done by a means likely to produce death or grievous bodily harm

RIF 090420

ORIGINAL

SUPPLEMENTAL CHARGE SHEET 3

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)	2. SSN	3. GRADE OR RANK	4. PAY GRADE
WACKER, DOUGLAS S.	538 08 3913	CAPT	O-3

CHARGE VI: ^{zip 090920} VIOLATION OF THE UCMJ, ARTICLE 134

Specification 1: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near San Diego, California, from about April 2007 to about January 2009, on diverse occasions, wrongfully endeavor to influence the testimony of Joseph Gorman, as a witness before Special Agent J.R. Burge, Naval Criminal Investigative Service, an investigating officer in the case of Captain Douglas S. Wacker, U.S. Marine Corps, by asking Joseph Gorman to provide false statements to the said investigating officer.

Specification 2: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near San Diego, California, From about April 2007 to about January 2009, wrongfully endeavor to impede the investigation in the case of Captain Douglas S. Wacker, U.S. Marine Corps, investigated by Special Agent J.R. Burge, Naval Criminal Investigative Service, by asking Mr. Amos Lowder to speak with Ms. Nicole Cusack, a potential victim, to keep Ms. Nicole Cusack quiet and to tell her to not talk to anyone about Captain Wacker's ongoing case with Ms. Easley and Ms. Brooder, or words to that effect.

Specification 3: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, commit an indecent assault upon Ms. Elizabeth Easley, a person not his wife by undressing her, kissing her neck and chest area, with intent to gratify his sexual desires.

Specification 4: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, while in a room with Ms. Elizabeth Easley and Ms. Jessica Brooder, willfully and wrongfully expose in an indecent manner to public view his penis.

SUPPLEMENTAL ADDITIONAL CHARGE SHEET 2

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)	2. SSN	3. GRADE OR RANK	4. PAY GRADE
WACKER, DOUGLAS S.	538 08 3913	CAPT	O-3

Specification 6: In that Captain Douglas Wacker, United States Marine Corps, on active duty, did, at or near San Diego, California, on diverse occasions, from about 9 January to 30 January 2009, act in a manner unbecoming of an officer and gentlemen, to wit: by sitting out in front of the University of San Diego book store in order to converse with several people he was given a direct order not to converse with.

Specification 7: In that Captain Douglas Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, act in a manner unbecoming of an officer and gentlemen, to wit: by engaging or attempting to engage in sexual contact with Ms. Elizabeth Easley after adding a drug, intoxicant or other similar substance to her drink making her incapacitated or so impaired she was incapable of consenting to the sexual contact.

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (<i>Last, First, MI</i>) WACKER, DOUGLAS S.		2. SSN 538 08 3913	3. GRADE OR RANK CAPT	4. PAY GRADE 0-3
5. UNIT OR ORGANIZATION HEADQUARTERS AND SERVICE BATTALION, MCRD, SAN DIEGO, CA			6. CURRENT SERVICE	
			a. INITIAL DATE 12 OCT 05	b. TERM Indef
7. PAY PER MONTH		8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL		
\$5358.00	NONE	\$5358.00	NONE	

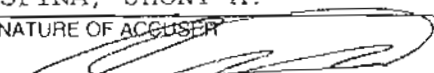
II. CHARGES AND SPECIFICATIONS

ADDITIONAL CHARGE I: VIOLATION OF THE UCMJ, ARTICLE 90

Specification: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, having received a lawful command from Lieutenant Colonel Bond, U.S. Marine Corps, acting commanding officer, Headquarters and Service Battalion, Marine Corps Recruit Depot, San Diego, California, his superior commissioned officer, then known by the said Captain Douglas S. Wacker, to be his superior commissioned officer, to not contact or speak to Ms. April Tatton or potential witnesses about the ongoing investigation involving Captain Wacker, or words to that effect, did, on diverse occasions, at or near San Diego, California on or about January 2009, willfully disobey the same.

(Continued on Supplemental Additional Charge Sheet 1)

III. PREFERRAL

11a. NAME OF ACCUSER (<i>Last, First, MI</i>) OSPINA, JHONY A.	b. GRADE SGT	c. ORGANIZATION OF ACCUSER HQSVCBN, MCRD SAN DIEGO, CA
d. SIGNATURE OF ACCUSER 		e. DATE 20 Apr 2009

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 20th day of APRIL, 20 09, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

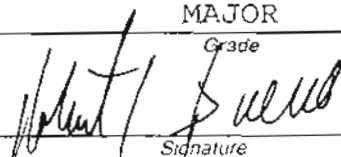
ROBERT M. BUENO
Typed Name of Officer

HQSVCBN, MCRD SAN DIEGO, CA
Organization of Officer

MAJOR
Grade

TRIAL COUNSEL

*Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)*


Signature

ORIGINAL

12.

On 22 April, 2009, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

D. J. COTE
Typed Name of Immediate Commander

H&S BATTALION, SAN DIEGO, CA
Organization of Immediate Commander

CAPTAIN, U.S. MARINE CORPS

D. J. COTE
Grade
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 0930 hours, 22 April, 2009 at H&S BATTALION, SAN DIEGO, CA

Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE ¹ COMMANDING OFFICER

D. J. COTE
Typed Name of Officer

ADJUTANT/LEGAL OFFICER
Official Capacity of Officer Signing

CAPTAIN, U. S. MARINE CORPS

D. J. COTE
Grade
Signature

V. REFERRAL; SERVICE OF CHARGES

14a DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b PLACE

c. DATE

Referred for trial to the _____ court-martial convened by _____

_____ 20 _____, subject to the following instructions:² _____ NONE

By //////////////////// Of _____
Command or Order

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

15.

On _____, 20 _____, I (caused to be) served a copy hereof on (each of) the above named accused

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 — When an appropriate commander signs personally, inapplicable words are stricken.
2 — See R.C.M. 601(e) concerning instructions. If none, so state

SUPPLEMENTAL ADDITIONAL CHARGE SHEET 1

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)	2. SSN	3. GRADE OR RANK	4. PAY GRADE
WACKER, DOUGLAS S.	538 08 3913	CAPT	O-3

ADDITIONAL CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 133

Specification 1: In that Captain Douglas Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, act in a manner unbecoming of an officer and gentlemen, to wit: by engaging or attempting to engage in sexual contact with Ms. Jessica Brooder after adding a drug, intoxicant or other similar substance to her drink making her incapacitated or so impaired she was incapable of consenting to the sexual contact.

Specification 2: In that Captain Douglas Wacker, United States Marine Corps, on active duty, did, at or near Seattle, Washington, on or about December 2006, act in a manner unbecoming of an officer and gentlemen, to wit: by engaging or attempting to engage in sexual contact with Ms. Nicole Cusak after adding a drug, intoxicant or other similar substance to her drink making her incapacitated or so impaired she was incapable of consenting to the sexual contact.

Specification 3: In that Captain Douglas Wacker, United States Marine Corps, on active duty, did, at or near San Diego, California, on diverse occasions, from about April 2007 to about January 2009, act in a manner unbecoming of an officer and gentlemen, to wit: by wrongfully endeavoring to influence the testimony of Mr. Joseph Gorman by wrongfully asking Mr. Joseph Gorman to provide false or misleading statements to Special Agent Burge, an NCIS investigator, who was conducting an official investigation into the case of Captain Douglas Wacker, U.S. Marine Corps; and such conduct was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Specification 4: In that Captain Douglas Wacker, United States Marine Corps, on active duty, did, at or near San Diego, California, on diverse occasions, from about April 2007 to about January 2009, act in a manner unbecoming of an officer and gentlemen, to wit: by wrongfully endeavoring to impede an ongoing criminal investigation in the case of Captain Douglas Wacker, by asking Mr. Amos Lowder to speak to Ms. Nicole Cusack and tell her, a potential victim in the case, to keep quiet and to not talk to anyone about Captain Wacker's ongoing case with Ms. Easley and Ms. Brooder; such conduct was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Specification 5: In that Captain Douglas Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, act in a manner unbecoming of an officer and gentlemen, to wit: drinking to excess while in public.

(Continued on Supplemental Additional Charge Sheet 2)



UNITED STATES MARINE CORPS

HEADQUARTERS AND SERVICE BATTALION
3800 BELLEAU WOOD AV
SAN DIEGO, CA 92140-5199

IN REPLY REFER TO:
5811

HQSVCBN

JUL 10 2009

From: Commanding Officer, Headquarters and Service Battalion
To: Commanding General, MCRD San Diego/WRR
Via: Assistant Chief of Staff, Staff Judge Advocate

Subj: FORWARDING OF CHARGES IN THE CASE OF CAPTAIN DOUGLAS S. WACKER, USMC

Ref: (a) R.C.M. 401, UCMJ

Encl: (1) Original Charge Sheet
(2) Article 32 Investigation of 22 June 2009

1. Per the reference, I am forwarding the subject case for action without recommendation.

2. At the time this case was investigated and preferred, I was the Staff Judge Advocate for the Commanding General, MCRD, San Diego. I have since taken command of Headquarters and Service Battalion, MCRD, San Diego and am the successor in command to the original convening authority. Therefore, I am forwarding the Investigating Officer's report to the Staff Judge Advocate for action without any recommendation with regard to disposition of the subject charges.


S. C. SMITH

Copy to:
TC
DC



UNITED STATES MARINE CORPS
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION
1600 HENDERSON AVENUE
SAN DIEGO, CALIFORNIA 92140

IN REPLY REFER TO:
5817
9D
GCMCO #1-09


01 MAR 2009

GENERAL COURT-MARTIAL CONVENING ORDER, SERIAL 1-09

Pursuant to the authority contained in R.C.M 504(b)(1) and JAGMAN section 0120a(1), A General Court-Martial is hereby convened to hear all those cases properly referred to it, with the following members:

MEMBERS

Colonel C. C. Conlin, U.S. Marine Corps;
Colonel P. G. Looney, U.S. Marine Corps;
Colonel M. A. Biszak, U.S. Marine Corps;
Lieutenant Colonel G. F. Bond, U.S. Marine Corps;
Lieutenant Colonel M. A. Begin, U.S. Marine Corps;
Lieutenant Colonel N. C. Maker, U.S. Marine Corps,
Major L. M. Webb, U.S. Marine Corps;
Major C. G. Blalock, U.S. Marine Corps;
Captain E. M. Lopez, U.S. Marine Corps;
Captain B. W. Richardson, U.S. Marine Corps;
Captain S. E. McCann, U.S. Marine Corps; and
First Lieutenant Z. B. Walter, U.S. Marine Corps.


A. SALINAS
Brigadier General
U.S. Marine Corps
Commanding General