

2LT Phillips Official
Response to
Memorandum
Of
Reprimand

Presented to

Robert C. Clouse Jr.

Brigadier General

Commanding

Presented by

Mark R. Phillips

2nd lieutenant

3rd Platoon Leader

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OHIO ARMY NATIONAL GUARD
Headquarters, 16th Engineer Brigade (Combat Support)
3990 East Broad Street, Building 2
Columbus, Ohio 43213-1152

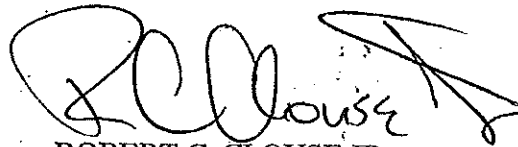
NGOH-EA-Z

14 May 2011

MEMORANDUM FOR 2LT Mark R. Phillips, 268-86-1902, 812th Engineer Company (Sapper),
1400 West Old Lincoln Way, Wooster, Ohio 44691-3326

SUBJECT: Memorandum of Reprimand

1. You are hereby reprimanded for violating O.R.C. 5924.107, False Official Statement, and O.R.C. 5924.132, Fraud Against the Government, of the OCMJ, in that you forged documents relating to your TDY lodging and submitted those same documents for reimbursement. Your conduct has been prejudicial to good order and discipline in the armed forces and is of a nature to bring discredit upon the armed forces.
2. It is a matter of serious concern to me that you committed such irresponsible acts and omissions. The United States Army reposed special trust and confidence in you when it bestowed upon you the privilege of being a commissioned officer. This privilege carries with it the responsibility to set a standard of personal conduct that Soldiers under you can follow. You have failed in this duty.
3. This reprimand is administrative in nature and is not imposed as punishment under Article 15 of the UCMJ. I am considering filing it in your Official Military Personnel File as a permanent document, but will consider any written matters you wish to submit prior to my final filing decision.
4. Acknowledge receipt of this memorandum. You then have seven (7) days to return the memorandum and submit any written matters in extenuation and mitigation. If you fail to respond within that time, I will assume that you elect not to submit matters and will take final filing action without your input.



ROBERT C. CLOUSE JR.

Brigadier General

Commanding

MEMORANDUM FOR Commander, 16th Engineer Brigade (Combat Support), 3990 E Broad St
Bldg 2, Columbus, Ohio 43213-1152

SUBJECT: Acknowledgment of Receipt of Administrative Reprimand

1. I have read and understand the unfavorable information against me contained in the administrative reprimand signed by the Commanding General, 16th Engineer Brigade. I understand I may rebut the unfavorable information contained in this administrative reprimand and that I have seven (7) days to submit any written statements or other documentation in support of any rebuttal. I also acknowledge receipt of copies of the documents that formed the basis for this administrative reprimand.
2. I elect to submit/not submit (circle one) written statements or other documentation in support of my rebuttal of the unfavorable information contained in the administrative reprimand.

(DATE)

MARK R. PHILLIPS
2LT, OHARNG
268-86-1902

Purported Violations of O.R.C. In Accordance With Official Memorandum Of Reprimand

1. O.R.C. 5924.107

5924.107 False official statements.

Any person subject to this code who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct.

Effective Date: 10-10-1961

Source: <http://codes.ohio.gov/orc/5924.107>

Purported Violations of O.R.C. In Accordance With Official Memorandum Of Reprimand Continued

2. O.R.C. 5924.132

5924.132 Frauds against government.

Any person subject to this code:

(A) Who, knowing it to be false or fraudulent:

(1) Makes any claim against the United States, the state, or any officer thereof; or

(2) Presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States, the state, or any officer thereof;

(B) Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer thereof;

(1) Makes or uses any writing or other paper knowing it to contain any false or fraudulent statement;

(2) Makes any oath to any fact or to any writing or other paper knowing the oath to be false; or

(3) Forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;

(C) Who, having charge, possession, custody, or control of any money, or other property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia or any force thereof, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or

(D) Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, furnished or intended for the armed forces of the United States or the organized militia or any force thereof, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the state; shall, upon conviction, be punished as a court-martial may direct.

Effective Date: 10-10-1961

Source: <http://codes.ohio.gov/orc/5924.132>

Narrative Of Events

Sir,

I am writing to you to explain the circumstances that led to the forwarding of documents to the travel voucher office that were unknowingly fraudulent to myself at the time. These documents are hotel lodging receipts which can be found in the investigation packet Exhibit II Tab H. On 17 December 2010, SSG Gottke and I was released from combative school early (approximately 1700) due to the fact that we had driven down via POV. SSG Gottke and I checked out of the hotel a day early as we decided to travel home that evening. Upon checking out and signing our respective receipts (original bill was split by hotel staff with SSG Gottke incurring the weekend rate for 2 of his days), SSG Gottke took both of the receipts because our projected time of arrival home was 0200 and my unit would not be open. SSG Gottke stated to me that he was on ADOS and had to go into work on Monday; therefore, he would scan and e-mail the receipts to me so that I could simply forward them to my unit, saving me a 3.5 hour drive the next business day. This left me in a situation where I never had control of the original receipts, with the exception of when I signed my individual receipt on the hotel counter. On 20 December 2011 I received an e-mail from SSG Gottke containing PDFs of the receipts. I simply forwarded the PDFs to SFC Moravitz via email and awaited payment for the voucher.

After several months and multiple phone calls to the unit inquiring about the travel voucher, I was finally called into a meeting with LTC Moore who stated that he was investigating possible travel voucher fraud in the 216th battalion. I spoke with him and discussed the details of the voucher. I informed him that I stayed in the same room as SSG Gottke and that we had co-paid for the room. LTC Moore then showed me the receipts and, upon inspection, I confirmed to LTC Moore that the room numbers on the receipts were wrong, but the document generally looked like what I signed at the hotel counter upon check out. I stated that the hotel must have given us improper documents. At that point the investigation ended. I made no other sworn statements, nor did I hear anything further regarding the investigation.

Several months later, during April's drill, I was pulled aside by the full-time staff and talked to about the incident. It was at that time that I was shown the documents in greater detail and I was first made aware of any intentional alterations to the original documents. I immediately showed them the e-mail I had received from SSG Gottke (dated 20 December 2011) that in turn then contained all the alterations the full time staff had just pointed out, and informed them how I had simply passed on the documents on to SFC Moravitz for submission. It was at this time that I recognized the documents contained within the email I had received from SSG Gottke as being the source of the fraudulent documents that I unknowingly forwarded to the staff of the 812 engineer company for submission to the state travel office. At this point I realized that I was part of the investigation and that the investigation was leading down a path that it has come to today.

Following this meeting, I made two attempts to contact LTC Moore, the investigating officer, to inform him of the situation. He declined to talk to me and stated that the investigation was closed. From here I proceeded to pay the complete balance of the travel voucher out of pocket as I had never received any payment from the state.

I then contacted the JAG in an attempt to present the information and evidence I possessed. Once again, there was initially no response. I was finally able to speak with the State JAG and as soon as I started to explain the situation he stated that he couldn't talk about it as he had knowledge of the situation. The State JAG then gave me CPT Wells' number and I attempted to contact him several times prior to the May drill. I received no response. Therefore, I went to Student Legal Services at Ohio University in attempt to receive legal guidance. Student Legal Services referred me to a private Lawyer who is familiar with military law and was informed that I would have to pay to speak with him. On Friday, May 13, 2011, I received a call back from CPT Wells. We spoke briefly on the phone and discussed a plan on action for the meeting with you sir, and our intentions to follow up on the outcome the following week.

This brings us to where we are today, Sir. I strongly believe that had I been given a chance to provide you with the information I possess, the investigation would have had a different outcome. I understand my how my trust in another person to do the right thing has lead to this situation. However, I have known SSG Gottke for several years on a professional and personal level and had no reason to doubt his intentions and, consequently, blindly submitted the documents to the full time staff at the 812 engineering company. I take responsibility for my oversight of not reviewing the documents thoroughly, but did so with no malice, and with no intent do deceive. I am a person of high integrity and would never knowingly submit fraudulent documents. My integrity and military career are extremely important to me, Sir, and I am respectfully requesting an opportunity to present you with further evidence supporting my position in this matter. At your request, I will forward the e-mail chain that validates my position. Thank you in advance for your consideration on this matter.

Respectfully,



2Lt Mark R. Phillips
812 Engineering Co (sapper)
3rd Platoon leader

Official Response

Opening Statement

Sir, to avoid giving the impression by default of "no response" as stated in paragraph 4 of the memorandum which states, "If you fail to respond within that time, I will assume that you elect not to submit matters and will take final filing action without your input," I am submitting my official response so as to comply with the suspense date of 21 May 2011.

Part 1

2. O.R.C. 5924.107

Any person subject to this code who, with **intent to deceive, signs any false record**, return, regulation, order, or other official document, **knowing it to be false**, or **makes any other false official statement** knowing it to be false, shall be punished as a court-martial may direct.

Since the accusations against me are broad in nature being "false official statement," I have bolded the above sections of ORC 5924.107 that are the basis of my alleged my guilt. I am compelled to address each section of the bolded areas to show the lack of probable cause and support of my innocence of the prescribed sections. The allegation in the Letter of Reprimand concludes that I forged the documents and knowingly submitted the false documents for reimbursement.

A.) Intent to deceive

This section was addressed in my narrative; however, I offer the following additional detail. The travel voucher I submitted, upon initial inspection, may appear to be my attempt to acquire additional, non-entitled funds from the state travel office. This conclusion is false. The SSG Gottke took possession of the hotel receipts at the hotel and was going to provide a copy to me. SSG Gottke sent me an email containing the altered receipts. I forwarded the receipts to my unit without opening the attachment and verifying their accuracy because I had no reason to believe they would be altered. Included in Appendix A of this report is the email I received from SSG Gottke. I forwarded SSG Gottke's email to my full-time staff for submission. Though irresponsible that I did not thoroughly inspect the documents prior to submitting, in forwarding these receipts I had no knowledge that these receipts were not original receipts from the hotel that were scanned into PDF files.

This event occurred around the Christmas holiday. I was working in Washington, DC at my future full-time job and just returned from my Army obligations. Being preoccupied by the month's events, when I received the documents from SSG Gottke I simply forwarded the documents to the full-time staff at my unit in an attempt to present them in a timely manner. I have a very demanding schedule as a Graduate Research Associate for the Avionics Engineering Center (AEC), Graduate Student, Graduate Student Teaching Assistant, and employee of the Naval Research Laboratory (NRL) Washington, DC. My attention was not on inspecting documents I had no reason to believe were not genuine and I would never jeopardize my integrity or career for financial gain. I look forward to a career with a professional degree and have no need, nor intent to steal a few hundred dollars and put my career at risk.

B.) Signs any false record, knowing it to be false

It is my understanding that the signature I placed on the travel voucher would be applicable to this clause of the law. The investigation did show that the voucher submitted contained documents as well as an incorrect amount on the room reimbursement line. I am not disputing this fact. What I am disputing is that I *knew it to be false*. Upon forwarding the receipts I received from SSG Gottke, the voucher was completed at drill with SGT Carmony. He tallied up all the receipt amounts and placed them on the line. Upon his completion of all sections he placed it in front of me to sign and submit. I am inexperienced with using the travel vouchers or military travel, and in my four years of service in the National Guard and my two years as a DOD Navy civilian employee at the Naval Research Laboratory I have never completed my own travel voucher. It was common practice when I was at the 811 Engineer Co (sapper) to sign a blank form before you left for travel and never see the document again. Admittedly, Sir, I did not have a complete understanding of the document that SGT Carmony placed in front of me and assumed it was accurate when I signed it. I should have review the form more closely but the travel voucher was placed in front of me to sign, not to review and verify the amounts.

C.) Make any other false official statement

I have not made any false statements, official or otherwise, throughout this investigation. I have, and will continue to, give my full cooperation to the investigating officials.

Part 2

3. O.R.C 5924.132

Any person subject to this code:

(A) Who, knowing it to be false or fraudulent:

- (1) Makes any claim against the United States, the state, or any officer thereof; or
- (2) Presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States, the state, or any officer thereof;

(B) Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer thereof;

- (1) Makes or uses any writing or other paper knowing it to contain any false or fraudulent statement;
- (2) Makes any oath to any fact or to any writing or other paper knowing the oath to be false; or

Sir, once again, the second accusation against me is broadly defined as "fraud against the government" to which part of ORC 5924.132 that your JAG Officer advised you I may be guilty of. I stated what I believe to be the applicable sections. The law can be viewed in its entirety in section 4 of this report.

A.) Who, knowing it to be false or fraudulent (sections 1 and 2)

Paragraph A sections 1 and 2 of O.R.C. 5924.132 can be addressed as one action that led to the proposed violation of both. The travel voucher submitted by my unit, and ultimately by me, (Exhibit 2 Tab H in the investigation packet) is what I believe to be the source of the proposed violation. However, the fact is that at the time of submission I did not know the document was false nor did I have any reason to believe it contained fraudulent information. To reaffirm my statements above, at the time I signed the travel voucher document I had no knowledge of fraudulent receipts, and I was unaware that the lodging amount was incorrect. I admit my understanding of DD-form 1351-2 (travel voucher) was inadequate when it was presented to me for signature. I signed the document without complete understanding and knowledge of what I was signing. Though my actions were irresponsible, in the sense of simply signing a document I did not fully understand, I did so on previous occasions and never encountered a problem, and there was no reason for me to expect anything different.

B.) Who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer thereof; (Sections 1 and 2)

This section may be addressed in the same manner as paragraph A. Paragraph B section 1 and 2 both can pertain to the voucher as well, where section 1 refers to DD-form 1351-2 itself and section 2 refers to my signature block on the form. Once again, this is based on knowing the document was false. I trust, at this point, it can be shown that I had no knowledge that the document was incorrect, there was no attempt at deception, and no attempt for financial gain.

Closing Statement

Sir, the conclusion of this statement leaves us where we are today. If I have omitted any section of the O.R.C from sections 5924.107 or 59.24.132 that you or your JAG Officer feel are applicable, I will address those applicable sections as well upon your request. I believe my statements provide evidence to show why the investigation was inconclusive and why I respectfully disagree with the punishment. I do admit that I was irresponsible in forwarding receipts that I did not review, as well as signing a travel voucher that I did not carefully review because I trusted an experienced NCO. However, Sir, I did not attempt to fraud the government, nor did I attempt to submit a false official statement. My career as an army officer, my career as a DOD civilian and my security clearance are not worth throwing away for a couple hundred dollars on a travel voucher. With all I stand to lose, I hope you can see that there is no motivation for me to commit such a crime.

Based on this information I respectfully request you reconsider and withdraw the request to initiate the withdrawal of my Federal Recognition, and the opportunity to discuss this situation so as to develop an alternative administrative action. Thank you for your time in reading my statement and your favorable consideration in this matter.

Respectfully,



Mark R. Phillips
2nd Lieutenant
812 Engineering Co.

Appendix

A

5/23/2011

doc (UNCLASSIFIED) - Outlook Web Ac...

Office Outlook Web Access Address Book Options Log Off

Mail Reply Reply to All Forward Move Delete Close

- Calendar
 - Contacts
 - Deleted Items (898)
 - Drafts (19)
 - Inbox
 - Junk E-Mail (1)
 - Sent Items
- Click to view all folders
- Manage Folders...

doc (UNCLASSIFIED)
Gottke, Justin E SSG NG NG NGB [justin.gottke@us.army.mil]

You forwarded this message on 4/3/2011 1:58 PM.

Sent: Monday, December 20, 2010 12:49 PM

To: Phelps, Mark

Attachments: IMG_0001.pdf (434 KB) (Open as Web Page); IMG_0002.pdf (355 KB) (Open as Web Page)

Classification: UNCLASSIFIED
Classification: UNCLASSIFIED

Connected to Microsoft Exchange

Appendix

B



105

12-17-10

mark phillips	Folio No. :	69138	Room No. :	229
	A/R Number :		Arrival :	12-07-10
	Group Code :		Departure :	12-17-10
	Company :		Conf. No. :	60885523
	Membership No. :		Rate Code :	IMGOV
	Invoice No. :		Page No. :	1 of 1

Date	Description	Charges	Credits
12-07-10	*Accommodation	83.00	
12-07-10	State Tax - Room	5.58	
12-07-10	City Tax - Room	2.79	
12-07-10	Bed/Occupancy Room Tax	1.86	
12-08-10	Visa XXXXXXXXXXXX5705		619.38
12-08-10	Visa XXXXXXXXXX18539 empt		-109.38
12-08-10	*Accommodation - Adj	-8.00	
12-08-10	State Tax - Room - Adj	-5.58	
12-08-10	City Tax - Room - Adj	-2.79	
12-08-10	Bed/Occupancy Room Tax - Ac	-1.86	
12-08-10	*Accommodation	85.00	
12-09-10	*Accommodation	85.00	
12-10-10	*Accommodation	85.00	
12-11-10	*Accommodation	85.00	
12-12-10	*Accommodation	85.00	
Total		510.00	510.00
Balance		0.00	

Guest Signature: _____

I have received the goods and / or services in the amount shown hereon. I agree that my liability for this bill is not waived and agree to be held personally liable in the event that the indicated person, company, or associate fails to pay for any part or the full amount of these charges. If a credit card charge, I further agree to perform the obligations set forth in the cardholder's agreement with the issuer.

Holiday Inn Express & Suites Columbia
 1011 Clemson Frontage Rd.
 Columbia, SC 29229
 Telephone: (803)419-3558 Fax: (803)865-5837



105

12-17-10

mark phillips	Folio No. :	59138	Room No. :	229
	A/R Number :		Arrival :	12-07-10
	Group Code :		Departure :	12-17-10
	Company :		Conf. No. :	60885523
	Membership No. :		Rate Code :	IMGOV
	Invoice No. :		Page No. :	1 of 1

Date	Description	Charges	Credits
12-13-10	*Accommodation	85.00	
12-14-10	*Accommodation	85.00	
12-15-10	*Accommodation	85.00	
12-16-10	*Accommodation	85.00	
12-16-10	Visa XXXXXXXXXXXXX5705		340.00
Total		340.00	340.00
Balance		0.00	

Guest Signature: _____

I have received the goods and / or services in the amount shown hereon. I agree that my liability for this bill is not waived and agree to be held personally liable in the event that the indicated person, company, or associate fails to pay for any part or the full amount of these charges. If a credit card charge, I further agree to perform the obligations set forth in the cardholder's agreement with the issuer.

Holiday Inn Express & Suites Columbia
 1011 Clemson Frontage Rd.
 Columbia, SC 29229
 Telephone: (803)419-3558 Fax: (803)865-5837

Appendix

C

4/1/10

(617) ...
SPC Parker



<u>mark phillips</u>	Folio No. : 59138	Room No. : 229
	A/R Number	Arrival : 12-07-10
	Group Code	Departure : 12-17-10
	Company	Conf. No. : 60985523
	Membership No.	Rate Code : IMG0V
	Invoice No.	Page No. : 1 of 1

105 12-17-10

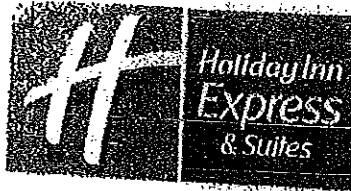
Date	Description	Charges	Credits
12-07-10	*Accommodation		
12-07-10	State Tax - Room	93.00	
12-07-10	City Tax - Room	5.58	
12-07-10	Bed/Occupancy Room Tax	2.79	
12-08-10	Visa	1.86	
12-08-10	Visa XXXXXXXXXXXX5705 XXXXXXXXXXXX14838		619.38
12-08-10	*Accommodation - Adj		-109.38
12-08-10	State Tax - Room - Adj	-8.00	
12-08-10	City Tax - Room - Adj	-5.58	
12-08-10	Bed/Occupancy Room Tax - Ac	-2.79	
12-08-10	*Accommodation	-1.86	
12-09-10	*Accommodation	85.00	
12-10-10	*Accommodation	85.00	
12-11-10	*Accommodation	85.00	
12-12-10	*Accommodation	85.00	
	Total	510.00	510.00
	Balance	0.00	

Guest Signature:

I have received the goods and / or services in the amount shown herein. I agree that my liability for this bill is not waived and agree to be held personally liable in the event that the indicated person, company, or associate fails to pay for any part or the full amount of these charges. If a credit card charge, I further agree to perform the obligations set forth in the cardholder's agreement with the issuer.

Holiday Inn Express & Suites Columbia
1011 Clemson Frontage Rd.
Columbia, SC 29229
Telephone: (803)419-3558 Fax: (803)865-5837

Eric Lee



mark phillips	Folio No. : 59138	105	12-17-10
	A/R Number :	Room No. : 229	
	Group Code :	Arrival : 12-07-10	
	Company :	Departure : 12-17-10	
	Membership No. :	Conf. No. : 60885623	
	Invoice No. :	Rate Code : IMG0V	
		Page No. : 1 of 1	

Date	Description	Charges	Credits
12-13-10	*Accommodation		
12-14-10	*Accommodation	85.00	
12-15-10	*Accommodation	85.00	
12-16-10	*Accommodation	85.00	
12-18-10	Visa XXXXXXXXXXXX5705	85.00	
			340.00
	Total	340.00	340.00
	Balance	0.00	

Guest Signature: _____
 I have received the goods and / or services in the amount shown hereon. I agree that my liability for this bill is not waived and agree to be held personally liable in the event that the indicated person, company, or associate fails to pay for any part or the full amount of these charges. If a credit card charge, I further agree to perform the obligations set forth in the cardholder's agreement with the issuer.

Holiday Inn Express & Suites Columbia
 1011 Clemson Frontage Rd.
 Columbia, SC 29229
 Telephone: (803)419-3558 Fax: (803)865-5837

Encl 1 ToF