

KEYWORD: Guideline F; Guideline E

DIGEST: There is a rebuttable presumption that a has considered all the evidence in the record.
Adverse decision affirmed.

CASENO: 06-24674.a1

DATE: 04/10/2008

DATE: April 10, 2008

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Chief Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On April 11, 2007, DOHA issued a statement of reasons advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and

Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992), as amended (Directive). Applicant requested a hearing. On October 30, 2007, after the hearing, Administrative Judge Darlene Lokey Anderson denied Applicant's request for a security clearance. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raises the following issue on appeal: whether the Judge did not receive or did not consider the additional materials he provided when the record was held open for that purpose. Finding no error, we affirm.

At the time of the hearing, record evidence indicated that Applicant was indebted to seven creditors for a total amount exceeding \$17,000. Applicant testified that he had paid off one small debt and had mailed a check to pay another small debt three days before the hearing, but provided no corroborating evidence. Applicant had done little else to settle his debts. Applicant testified that he was unaware that he had debts that were delinquent by 180 or 90 days when he filled out his security clearance application and therefore did not deliberately falsify the application. The Judge held the record open for three weeks for Applicant to submit further information about his attempts to satisfy his debts, and Applicant submitted documents twice during that period.

Applicant's post-hearing submissions are contained in the record. There is a rebuttable presumption that a Judge has considered all the evidence in the record before her unless she specifically states otherwise. *See, e.g.*, ISCR Case No. 99-9020 at 2 (App. Bd. Jun. 4, 2001). Moreover, the Judge stated in her decision that Applicant submitted materials after the hearing, and she set out the terms of an agreement that Applicant entered into which was part of the post-trial materials. *See* Decision at 2 and 3.

It is clear that the Judge received the materials Applicant submitted and considered them in reaching her decision. The fact that she did not accord them the weight Applicant would have accorded them is not indicative of error on the part of the Judge. *See, e.g.*, ISCR Case No. 07-01659 at 2 (Feb. 22, 2008). Given the record that was before her, the Judge's ultimate unfavorable security clearance decision is sustainable.

Order

The Judge's decision denying Applicant a security clearance is AFFIRMED.

Signed: Michael Y. Ra'anan
Michael Y. Ra'anan
Administrative Judge
Chairman, Appeal Board

Signed: Jean E. Smallin

Jean E. Smallin
Administrative Judge
Member, Appeal Board

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board