KEYWORD: Guideline F; Guideline E; Guideline J

DIGEST: Applicant's appeal brief relies on new evidence. The Board cannot consider new evidence on appeal. Adverse decision affirmed.

CASENO: 07-04843.a1

DATE: 03/30/2009

		DATE: March 30, 2009
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In Re:	)	
	)	ISCR Case No. 07-04843
A 11	)	
Applicant for Security Clearance	)	

## APPEAL BOARD SUMMARY DISPOSITION

## **APPEARANCES**

## FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

## FOR APPLICANT Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On July 16, 2008, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations),

Guideline E (Personal Conduct) and Guideline J (Criminal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On January 28, 2009, after the hearing, Administrative Judge Roger C. Wesley denied Applicant's request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief contains no assertion of harmful error on the part of the Judge. Rather, it contains new evidence, in the form of an statement in which Applicant asserts that he has received a substantial inheritance after the close of the record which he anticipates will permit him to resolve his financial problems.

The Board cannot consider Applicant's new evidence on appeal. See Directive ¶ E3.1.29. The Appeal Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. It does not review cases de novo. Applicant has not made an allegation of harmful error. Therefore, the decision of the Judge 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