

KEYWORD: Guideline F; Guideline E

DIGEST: Applicant has demonstrated that he submitted documentary evidence which was not made part of the record. Adverse decision remanded.

CASENO: 10-03693.a1

DATE: 05/21/2012

DATE: May 21, 2012

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| In Re: |) | |
| |) | |
| ----- |) | ISCR Case No. 10-03693 |
| |) | |
| Applicant for Security Clearance |) | |

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Alan V. Edmunds, Esq.

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On April 11, 2011, DOHA issued a statement of reasons (SOR) 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 February 29, 2012, after the hearing, Administrative Judge Martin H. Mogul denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant was afforded an opportunity to supplement the hearing record. By means of his appeal brief, he has provided credible evidence that he submitted documentary evidence, which was received by DOHA within the prescribed period of time. *See* Directive ¶ E3.1.7. However, these documents were not made part of the record.

In his reply brief, Department Counsel states that expedited remand is the most equitable resolution of this case. We concur. Accordingly, the case is hereby remanded to the Judge for further processing. Nothing contained in this action shall prejudice the appeal rights of the parties.

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

Signed: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board

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