

DATE: March 7, 2001

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 00-0222

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Peregrine D. Russell-Hunter, Chief Department Counsel

FOR APPLICANT

Pro Se

Administrative Judge Joseph Testan issued a decision dated September 29, 2000 in which he concluded it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Applicant appealed. For the reasons set forth below, the Board affirms the Administrative Judge's decision.

The Board has jurisdiction on appeal under Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, as amended.

Applicant's appeal presents the issues of whether the Administrative Judge erred by basing his entire opinion on an erroneous finding that Applicant intentionally falsified his financial history on his security clearance application, and whether the Administrative Judge's adverse decision is not warranted because Applicant is not a security risk.

Procedural History

The Defense Office of Hearings and Appeals issued a Statement of Reasons (SOR) to Applicant on May 19, 2000. The SOR was predicated on Guideline F (Financial Considerations), Guideline E (Personal Conduct) and Guideline J (Criminal Conduct). Applicant requested a hearing which was held on August 29, 2000. The Administrative Judge issued an unfavorable decision dated September 29, 2000. Applicant appealed. [\(1\)](#)

Appeal Issues

Applicant asserts that the Administrative Judge made an erroneous finding that Applicant intentionally falsified his financial history on his security clearance application and then based his entire adverse decision on that finding. Applicant's argument is unpersuasive.

The Administrative Judge's finding of falsification is supported by enough record evidence to meet the standard cited in the Directive for the Board to affirm. (Directive, Additional Procedural Guidance, Item E3.1.32.1: "The Administrative Judge's findings of fact are supported by such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.") Here, Applicant presented a different explanation at the hearing than he had in his July 20, 1999 signed statement for his failure to list all of his financial

delinquencies. He asserted at the hearing and on appeal that his signed statement was not prepared by him and that signing it was a mistake. However, he had initialed or corrected several paragraphs including paragraphs on the same page as the controverted declaration. The explanation offered (for the omission of the delinquencies in the security clearance application form) in Applicant's signed statement was a virtual admission of intentional falsification. The Administrative Judge's finding of intentional falsification is supported by sufficient evidence to be affirmed.

Applicant's argument that the Administrative Judge's finding of falsification was the basis for the entire decision is not supported by the plain language of the Administrative Judge's decision. A reading of the decision below leaves no reasonable basis to doubt that the Administrative Judge decided the case based on his adverse conclusions under Guideline F (Financial Considerations) in addition to his adverse conclusions about Applicant's falsification.

Applicant's assertion that he is not a security risk fails to demonstrate the Administrative Judge's decision is arbitrary, capricious, or contrary to law. The federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. Applicant's history of unresolved financial problems and his falsification of the security questionnaire provide a rational basis for the Judge's adverse decision.

Conclusion

Applicant has failed to meet his burden of demonstrating error below. Accordingly, the Board affirms the Administrative Judge's September 29, 2000 decision.

Signed: Emilio Jaksetic

Emilio Jaksetic

Administrative Judge

Chairman, Appeal Board

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan

Administrative Judge

Member, Appeal Board

Signed: Jeffrey D. Billett

Jeffrey D. Billett

Administrative Judge

Member, Appeal Board

1. The Administrative Judge made favorable findings of fact with regard to the allegations contained in SOR paragraphs 2.a. and 2.b. Those findings are not at issue on appeal.