

DATE: November 2, 2006

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 03-24245

## APPEAL BOARD DECISION

### APPEARANCES

#### FOR GOVERNMENT

Peregrine D. Russell-Hunter, Esq., Chief Department Counsel

#### FOR APPLICANT

*Pro Se*

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On December 29, 2004, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision--security concerns raised under Guideline F (Financial Considerations) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested the case be decided on the written record. On April 28, 2006, after considering the record, Administrative Judge Juan J. Rivera denied Applicant's request for a security clearance. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Administrative Judge erred by concluding that the security concerns raised under Guideline F had not been mitigated.

Applicant contends that the Administrative Judge erred in concluding that the security concerns raised by his history of financial difficulties had not been mitigated. In support of that contention, Applicant argues that the Judge erred in several of his findings, for example, finding Applicant's largest delinquency was \$71,000, rather than \$24,000, <sup>(1)</sup> and finding incorrect amounts with respect to several unspecified debts. The Board does not find Applicant's contention persuasive.

Applicant has not met his burden of demonstrating that the Administrative Judge's material findings with respect to his conduct of security concern do not reflect a reasonable or plausible interpretation of the record evidence. Considering the record evidence as a whole, the Judge's material findings of security concern are sustainable.

In this case, the Administrative Judge found that Applicant had a lengthy history of not meeting financial obligations. At the time the case was submitted for decision, Applicant still had significant outstanding debts. In light of the foregoing, the Judge reasonably concluded that Applicant's financial problems were still ongoing. *See, e.g.*, ISCR Case No. 03-26213 at 2 (App. Bd. Aug. 23, 2006). The Judge weighed the mitigating evidence offered by Applicant against the length and seriousness of the disqualifying conduct, and considered the possible application of relevant mitigating conditions. The Judge articulated a rational basis for not applying any mitigating conditions in this case, and reasonably explained why the evidence which the Applicant had presented in mitigation was insufficient to overcome the government's security concerns. The Board does not review a case *de novo*. The favorable record evidence cited by Applicant is not sufficient to demonstrate the Administrative Judge's decision is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 02-28041 at 4 (App. Bd. June 29, 2005). Given the record that was before him, the Judge's ultimate unfavorable clearance decision under Guideline F is sustainable. Thus, the Administrative Judge did not err in denying Applicant a clearance.

**Order**

The decision of the Administrative Judge denying Applicant a clearance is AFFIRMED.

Signed: Jean E. Smallin

Jean E. Smallin

Administrative Judge

Member, 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

1. In his Answer to the SOR, Applicant admitted to the \$71,111.00 debt alleged in subparagraph 1.g.