

DATE: August 23, 2006

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-26213

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Robert E. Coacher, Esq., Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On March 3, 2005, 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 a hearing. On January 23, 2006, after the hearing, Administrative Judge James A. Young 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. ⁽¹⁾

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 essentially reargues his case with respect to the limited evidence he presented below and also argues that the Judge erred with respect to his findings. The Board does not find Applicant's contention persuasive.

The findings which Applicant challenges are permissible characterizations by the Administrative Judge. Applicant has not met his burden of demonstrating that the Administrative Judge's material findings with respect to Applicant's 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 ⁽²⁾ 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 could reasonably conclude that Applicant's financial problems were still ongoing. Moreover, the Board has previously noted that it is reasonable to expect applicants to have documentation about efforts to satisfy specific debts. *See* ISCR Case No. 03-23511 at 2 (App. Bd. Feb. 15, 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 found in favor of the Applicant with respect to several of the factual allegations. However, the Judge articulated a rational basis for not fully 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 Guidelines 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: 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: William S. Fields

William S. Fields

Administrative Judge

Member, Appeal Board

1. The Administrative Judge found in Applicant's favor with respect to SOR paragraphs 1.a, 1.e, 1.f. Those favorable findings are not at issue on appeal.

2. Applicant points to an ostensible error in the Administrative Judge's findings. The Judge found that the debts alleged in SOR paragraphs 1.a and 1.c were the same debt. However, in his formal findings, the Judge found for Applicant under 1.a and against Applicant under 1.c. The Judge's decision does not contain an explanation for the apparent dichotomy.