DATE: March 16, 2006

In Re:

SSN: ----------

Applicant for Security Clearance

ISCR Case No. 04-08269

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 May 26, 2005, DOHA issued a statement of reasons advising Applicant of the basis for that decision--security concerns raised under Guideline E (Personal Conduct) and Guideline J (Criminal Conduct), of Department of Defense Directive 5220.6 (Jan. 2, 1992), as amended (Directive). Applicant requested the case be decided on the written record. On December 31, 2005, after considering the record, Administrative Judge Michael J. Breslin 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's adverse findings and conclusions follow rationally from the record evidence. The Administrative Judge found and the record supports that Applicant has a graduate degree and used marijuana from 1990 to 1999, while he had a security clearance. In 2003, Applicant answered two questions on a security clearance application inquiring about illegal drug use, including marijuana, with false negative answers. Applicant cites the specific wording of the questions in support of a claim that the Judge misstated the content of the questions. The Judge's statement of the content of the questions (which was not in quotation marks) reasonably captured the point of the questions. The Judge was unpersuaded by Applicant's claim that he did not think that the quantities of marijuana he used were covered by the question. The Judge concluded that Applicant's marijuana use while holding a clearance and false statements were sufficient to deny Applicant a security clearance. The Board concludes that the Judge's analysis 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

Member, Appeal Board

Signed: Michael D. Hipple

Michael D. Hipple

Administrative Judge

Member, Appeal Board

Signed. Jean E. Smallin

Jean E. Smallin

Administrative Judge

Member, Appeal Board