

DATE: November 16, 2006

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 05-08459

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

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

FOR APPLICANT

Joseph P. Appelt, Esq.

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On November 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 May 12, 2006, after the hearing, Administrative Judge LeRoy F. Foreman 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 issues on appeal: whether four of the Administrative Judge's findings of fact were erroneous; and 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 his financial problems were isolated and not recent, and they were due to circumstances beyond his control--his parents' medical problems and his temporary loss of employment. Applicant also argues that several of the Judge's findings are erroneous, in that they are only partially correct or take matters out of context. The Board does not find Applicant's contentions persuasive.

The findings of fact which Applicant challenges are permissible characterizations by the Administrative Judge and each is supported by relevant evidence. Applicant has not met his burden of demonstrating that the 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 of security concern are sustainable. [\(1\)](#)

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 over \$40,000 in unpaid credit card debt. He had not made any efforts to resolve, compromise, or pay his delinquent debts even after he had started a new job. In light of the foregoing, the Judge reasonably concluded that Applicant's financial problems were still ongoing. *See* 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 the potential 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: Michael D. Hipple

Michael D. Hipple

Administrative Judge

Member, Appeal Board

Signed: William S. Fields

William S. Fields

Administrative Judge

Member, Appeal Board

Signed: David M. White

David M. White

Administrative Judge

Member, Appeal Board

1. Even if each of the challenged findings of fact were changed to reflect Applicant's interpretation of the record evidence, it would not have undermined the Administrative Judge's conclusions. Therefore, any error would have been at best harmless.