

KEYWORD: Guideline F

DIGEST: The record does not contain government exhibits 1-7. Adverse decision remanded.

CASENO: 09-03760.a1

DATE: 07/16/2010

DATE: July 16, 2010

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In Re:)	
)	
-----)	ISCR Case No. 09-03760
)	
)	
Applicant for Security Clearance)	
_____)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Barry W. Rorex, Esq.

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On November 3, 2009, 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 18, 2010, after the hearing, Administrative Judge Robert Robinson Gales denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge failed to consider record evidence favorable to Applicant; whether the Judge mis-weighed the record; and whether the Judge erred in his conclusion that Applicant had not mitigated the security concerns in this case. Consistent with the following discussion, we remand the case.

As a preliminary issue, we note that the record does not contain Government Exhibits 1-7, the documents submitted by Department Counsel and admitted at the hearing. Tr. at 13. Without a complete record we cannot perform appellate review. Accordingly, we remand the case to the Judge for the purpose of reconstructing the record in consultation with the parties. Upon completion of that task, the case file should be returned to the Board for processing of Applicant's appeal in accordance with the Directive.

Order

The Judge's adverse security clearance decision is REMANDED.

Signed: Michael Y. Ra'anan
Michael Y. Ra'anan
Administrative Judge
Chairperson, 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