

KEYWORD: Guideline F

DIGEST: By explicit mandate, the Board may not consider new evidence on appeal. Adverse decision affirmed.

CASENO: 10-02168.a1

DATE: 11/25/2011

DATE: November 25, 2011

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In Re: )  
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----- ) ISCR Case No. 10-02168  
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Applicant for Security Clearance )  
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**APPEAL BOARD SUMMARY DISPOSITION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro se*

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On March 24, 2011, 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 August 26, 2011, after the hearing, Administrative Judge Roger C. Wesley denied Applicant's request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief makes no assertion of harmful error on the part of the Judge. Applicant does assert that an attorney he had retained failed to forward documentation pertinent to his security clearance adjudication to the Judge for his consideration. The Judge had agreed to leave the record open for a period of time after the hearing for the submission of additional documents. A single document entitled, "Notice of Bankruptcy Case Filing" with a cover letter from Applicant's security clearance attorney was submitted and accepted into evidence. The Judge alluded to this evidence in his decision, but also noted the lack of bankruptcy filing schedules, the lack of a Chapter 13 bankruptcy plan, and the lack of evidence of tax filings. The record supports the Judge's characterization of the evidence. On appeal, Applicant specifically requests the Board to allow him to submit new evidence for consideration. Applicant states that it is his understanding that his security clearance attorney failed to forward to the Judge documents his bankruptcy attorney had faxed to the security clearance attorney.

By explicit mandate, the Board may not consider new evidence on appeal. *See* Directive ¶ E3.1.29. Additionally, the Appeal Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. *See* Directive ¶ E3.1.32. Therefore, the decision of the Judge denying Applicant a security clearance is AFFIRMED.

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

Signed: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board