

KEYWORD: Guideline F; Guideline E

DIGEST: The Judge had no authority to serve as an investigator in the case and contact the bank or the collection attorneys. To do so would be inconsistent with her role as an independent fact finder. Adverse decision affirmed.

CASENO: 16-01787.a1

DATE: 11/22/2017

DATE: November 22, 2017

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 16-01787
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APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On September 16, 2016, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On September 7, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Darlene D. Lokey Anderson denied Applicant’s request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant requested that his case be decided on the written record and then did not respond to the government's File of Relevant Material (FORM). The Judge based her adverse decision as to the Guideline F allegations in large measure on the lack of documentation to substantiate his assertion that he has been working to resolve his delinquent debts. Decision at 5-6. On appeal, Applicant asserts that he had previously "supplied Bank account numbers and the phone numbers of the Collection lawyers to whom [he had] been paying for the last 5 years." The Judge considered that information in reaching her decision. *Id.* at 1, 3, 5 and 7. The Judge had no authority to serve as an investigator in the case and contact the bank or the collection attorneys. To do so would be inconsistent with her role as an independent fact finder. *See, e.g.,* ISCR Case No. 16-00420 at 2 (App. Bd. Aug. 7, 2017).

Applicant does not challenge the Judge's adverse decision as to the Guideline E allegations. He asks for more time "to produce the financial statements when they arrive" for the Board's review. The Board cannot consider new evidence on appeal and has no authority to grant Applicant an extension for the purpose of obtaining more evidence. *See* Directive ¶ E3.1.29; ISCR Case No. 15-08474 at 2 (App. Bd. Aug. 1, 2017). The Board does not review a case *de novo* and the adverse impact that an unfavorable decision may have on an applicant is not a relevant or material consideration in evaluating his or her security eligibility. *See, e.g.,* ISCR Case No. 15-06908 at 3 (App. Bd. Jan. 18, 2017). Therefore, the decision of the Judge is AFFIRMED.

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

Signed: James F. Duffy
James F. Duffy
Administrative Judge
Member, Appeal Board

Signed: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board