

KEYWORD: Guideline F; Guideline E

DIGEST: The Judge's adverse conclusions under Guideline E are sustainable based on this record. Adverse decision affirmed.

CASENO: 06-19963.a1

DATE: 03/07/2008

DATE: March 7, 2008

In Re:)	
)	
-----)	ISCR Case No. 06-19963
)	
Applicant for Security Clearance)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Alan V. Edmunds, Esq.

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On March 28, 2007, DOHA 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 hearing. On November 28, 2007, after the hearing, Administrative Judge Martin H. Mogul denied Applicant's request for a security clearance. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raises the following issues on appeal: whether the Judge erred in concluding that Applicant knowingly provided false information on his security clearance application (SCA) and to an interviewer; and whether the Judge's failure to mitigate the Guideline F and E security concerns was arbitrary, capricious, and contrary to law. Finding no error, we affirm.

The Judge found that Applicant had numerous unresolved debts. He found that Applicant stated "no" on his SCA when asked if he had debts that had been delinquent for 90 and 180 days respectively and that these answers were not true. The Judge found that Applicant had been charged with a felony offense arising from his misuse of another person's credit card. Applicant answered "no" to a question on his SCA inquiring as to whether he had ever been charged or convicted of a felony offense, and during an interview he failed to disclose the full extent of this misuse.

The Board has examined the Judge's decision in light of the record as a whole. The Judge's conclusion that Applicant knowingly provided false information is sustainable. Furthermore, the Judge has drawn "a rational connection between the facts found" under Guideline E and his adverse decision. See *Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). Accordingly, the Judge's adverse decision under Guideline E is neither arbitrary, capricious, nor contrary to law. In light of this holding, the Board need not address the Guideline F security concerns.

Order

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Jean E. Smallin
Jean E. Smallin
Administrative Judge
Member, 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