

KEYWORD: Guideline F

DIGEST: The unchallenged findings support the Judge's favorable whole person analysis. The Board need not agree with the Judge's decision to find it sustainable. Favorable decision affirmed.

CASENO: 08-06856.a1

DATE: 01/21/2010

DATE: January 21, 2010

_____)	
In Re:)	
)	
-----)	ISCR Case No. 08-06856
)	
Applicant for Security Clearance)	
_____)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Nichole Noel, Esq., Department Counsel

FOR APPLICANT

Thomas E. Higgins, Esq.

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On February 25, 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 October 14, 2009, after the hearing, Administrative Judge Edward W. Loughran granted Applicant’s request for a security clearance. Department Counsel appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Department Counsel raised the following issue on appeal: whether the Judge substituted a favorable credibility determination for record evidence. Finding no error, we affirm.

The Judge found that Applicant is an engineer working for a Defense contractor. He is the deputy chief engineer on a major weapons system, a position he has held with defense contractors since 1984. A graduate of a service academy, he served as an officer and is a veteran of the Vietnam War.

Applicant’s wife developed a “severe gambling problem,” which resulted in financial difficulties, including foreclosure on his home. Applicant and his wife filed for Chapter 13 bankruptcy, but it was dismissed due to Applicant’s inability to maintain payments. Applicant’s SOR listed several delinquent debts, including the mortgage on their home, and the bankruptcy action. Applicant has paid off the debts listed in the SOR, as well as seven additional ones not listed. He has received financial counseling, and his wife is receiving counseling for her gambling problem. Applicant enjoys an excellent reputation for his job performance, his judgement, and his integrity. These unchallenged findings support a favorable whole-person analysis. Accordingly, we conclude that the Judge’s decision is sustainable. “The Board need not agree with a Judge’s decision in order to find it sustainable.” ISCR Case No. 06-23881 at 2 (App. Bd. Nov. 2, 2007).

Order

The Judge’s favorable security clearance decision is AFFIRMED.

Signed: Michael Y. Ra’anan
Michael Y. Ra’anan
Administrative Judge
Chairman, 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