

KEYWORD: Guideline F

DIGEST: In 2016, Applicant stopped making the payments on two mortgages. She then proceeded to purchase a second home for \$250,000, acquired about \$38,000 in credit card debt for repairs to the new home, and purchased a used luxury car for about \$18,000. She claimed she thought her cousin was making the mortgage payments, although she acknowledged her cousin never contributed before and had no plan to pay them. Adverse decision affirmed.

CASENO: 17-03971.a1

DATE: 03/15/2019

DATE: March 15, 2019

In Re:	)	
	)	
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	)	
Applicant for Security Clearance	)	

**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 December 15, 2017, DoD 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 November 28, 2018, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Jennifer Goldstein denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge’s adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

### **The Judge’s Findings of Fact and Analysis**

Applicant is a 64-year-old employee of a government contractor. She was granted a security clearance in 2007. She admitted receiving a Chapter 7 bankruptcy discharge in 2017, but denied two mortgage accounts alleged in the SOR.

In 2005, Applicant purchased a \$367,000 home jointly with her cousin who did not have good credit. Applicant lived in the home with her cousin who promised to refinance the mortgage solely in her name when she was able to do so, but that did not occur. In 2006, the purchase loan was refinanced into first and second mortgages with Applicant as the primary borrower on both mortgages and her cousin as a cosigner. In 2014, Applicant gave her cousin two-years notice that she would move out and would no longer pay the mortgages. Her cousin, who received social security disability payments, never contributed to the mortgage payments.

In 2016, Applicant stopped making the payments on both mortgages. She then proceeded to purchase a second home for \$250,000, acquired about \$38,000 in credit card debt for repairs to the new home, and purchased a used luxury car for about \$18,000. She claimed she thought her cousin was making the mortgage payments, although she acknowledged her cousin never contributed before and had no plan to pay them.

From August 2016 to June 2017, Applicant’s cousin failed to make the mortgage payments. After the mortgages fell into default, Applicant tried to negotiate a deed in lieu of foreclosure on the first home, which was unsuccessful. She was advised to file Chapter 7 bankruptcy. Her bankruptcy petition listed over \$640,000 in secured claims and over \$38,000 in unsecured loans. The bankruptcy docket page showed the trustee abandoned over \$487,000 in secured claims on the first home. The first home was removed from the bankruptcy, foreclosed, and sold at auction. Applicant claims she has no further liability regarding the two mortgages on the first home. Her credit report reflects those two mortgage have zero balances.

Applicant has participated in financial counseling. She estimated her annual income for 2017 to be over \$80,000. She is current on two credit cards.

Applicant's financial problems were the result of her vacating the property she owned with her cousin. She had no realistic expectation her cousin would make the mortgage payments. She chose to abandon her financial obligation. She has not shown that her financial problems were due to circumstances beyond her control or that she acted responsibly under the circumstances. Her recent financial decisions cast doubt on her judgment.

### **Discussion**

Applicant's appeal brief contains a document that is not included in the record. The Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

Applicant contends the Judge did not review all of the facts in her case. She argues that she did not abandon the first home and that her cousin agreed to refinance the property and could afford to do so. She also states that she tried to negotiate with the lender when she learned the mortgage loans were in default. She notes she is not responsible for any balance on those mortgage loans and she purchased the car because her old car was not worth repairing. She argues she does not live outside her means. Her arguments, however, are neither sufficient to rebut the presumption that the Judge considered all of the evidence in the record nor enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 17-02488 at 3-4 (App. Bd. Aug. 30, 2018). Based upon the record evidence, the Judge's conclusion that Applicant's poor financial decisions cast doubt on her judgment is sustainable. Applicant also indicates that the loss of her security clearance is having a negative impact on her, but the adverse consequences arising from an unfavorable clearance decision are not relevant considerations in evaluating an applicant's national security eligibility. *See, e.g.*, ISCR Case No. 14-04202 at 4 (App. Bd. Dec. 24, 2015).

Applicant has not established that the Judge committed any harmful error. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also* Directive, Encl. 2, App. A ¶ 2(b): "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

**Order**

The Decision 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: Charles C. Hale  
Charles C. Hale  
Administrative Judge  
Member, Appeal Board