

KEYWORD: Guideline F, Guideline E

DIGEST: Applicant alleges the Judge erred regarding her finding that “Applicant claims to have resolved the judgment alleged in SOR ¶ 1.b (\$749). Although she provides copies of two money orders receipts showing \$400 payments, the receipts do not establish the payee.” Decision at 4. The Judge’s findings are a fair description of the copies of the money order in the record. Adverse decision is affirmed.

CASE NO: 19-01588.a1

DATE: 06/03/2020

DATE: June 3, 2020

<p>In Re: _____</p> <p>Applicant for Public Trust Position</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>ADP Case No. 19-01588</p>
----------------------------------------------------------------	-------------------------------------------------------------------------	------------------------------

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 trustworthiness designation. On June 21, 2019, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—trustworthiness 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 March 4, 2020, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Nichole L. Noel denied Applicant’s request for a trustworthiness designation. The Judge found against Applicant on 23 Guideline F allegations and in favor of her on all of the Guideline E allegations. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant alleges the Judge erred regarding her finding that “Applicant claims to have resolved the judgment alleged in SOR ¶ 1.b (\$749). Although she provides copies of two money orders receipts showing \$400 payments, the receipts do not establish the payee.” Decision at 4. The Judge’s findings are a fair description of the copies of the money order in the record.

Applicant’s appeal brief raises no other allegation of harmful error on the part of the Judge. Instead, it describes the reasons for her financial problems and her efforts to resolve them. Her brief also contains a document and assertions that were not presented to the Judge for consideration. The Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

Applicant indicates that losing her job will have a negative impact on her financial situation. However, the impact of an unfavorable decision on an applicant is not a relevant consideration in determining his or her eligibility for a trustworthiness designation. *See, e.g.*, ADP Case No. 17-01760 at 3 (App. Bd. Apr. 20, 2018).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. The standard applicable to trustworthiness cases is that set forth in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988) regarding security clearances: such a determination “. . . may be granted only when ‘clearly consistent with the interests of the national security.’” *See, e.g.*, ADP Case No. 16-01251 at 2 (App. Bd. Jun. 7, 2017). *See also Kaplan v. Conyers*, 733 F.3d 1148 (Fed. Cir. 2013), *cert. denied*.

Order

The Decision is **AFFIRMED**.

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

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

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