

KEYWORD: Guideline F

DIGEST: We find no error in the Judge’s conclusions that Applicant’s job loss cannot be viewed as having resulted from conditions largely beyond his control because he was fired from that job for violating company policies and he did not act responsibly under the circumstances by failing to contact the creditors or develop plans to repay the debts. In short, none of Applicant’s arguments are enough to rebut the presumption that the Judge considered all of the record evidence. Adverse Decision Affirmed.

CASE NO: 20-03247.a1

DATE: 09/13/2021

DATE: September 13, 2021

In Re:)	
)	
-----)	ISCR Case No. 20-03247
)	
Applicant for Security Clearance)	
)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Lindsay Bierman, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On December 7, 2020, 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 July 2, 2021, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge John Bayard Glendon 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.

Applicant, who is in his forties, is married with adult children. He honorably served in the U.S. military and has previously held a security clearance. The SOR alleged that he had eight delinquent debts totaling about \$31,900. He admitted the debts in the SOR. The Judge found that each debt remained unresolved and concluded that Applicant had not initiated a good-faith effort to repay the overdue creditors and none of the mitigating conditions were established.

On appeal, Applicant contends the Judge did not consider all of the evidence, mis-weighted the evidence, and did not properly apply the mitigating conditions and whole-person concept. He argues, for example, that the Judge erred in failing to give proper weight to Mitigating Condition 20(b), *i.e., the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances*, by pointing out that he lost his job in 2015, earned significantly less in subsequent jobs, and resolved some debts that were not alleged in the SOR. This argument is not persuasive. We find no error in the Judge's conclusions that Applicant's job loss cannot be viewed as having resulted from conditions largely beyond his control because he was fired from that job for violating company policies and he did not act responsibly under the circumstances by failing to contact the creditors or develop plans to repay the debts. In short, none of Applicant's arguments are enough to rebut the presumption that the Judge considered all of the record evidence. *See, e.g., ISCR Case No. 19-01400 at 2 (App. Bd. Jun. 3, 2020)*. Moreover, his arguments are not sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *Id.*

In his brief, Applicant requests "a probationary period be instituted." Appeal Brief at 8. To the extent that he is requesting a conditional security clearance, we conclude that Applicant has not established that the granting of an exception under Appendix C of the Adjudicative Guidelines is merited.

Applicant has failed to establish 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 E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

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