



**DEPARTMENT OF DEFENSE**  
**DEFENSE LEGAL SERVICES AGENCY**  
**DEFENSE OFFICE OF HEARINGS AND APPEALS**  
**APPEAL BOARD**  
**POST OFFICE BOX 3656**  
**ARLINGTON, VIRGINIA 22203**  
**(703) 696-4759**

Date: July 15, 2024

In the matter of:	)	
	)	
-----	)	ISCR Case No. 22-02087
	)	
Applicant for Security Clearance	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

Julie R. Mendez, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro se*

The Department of Defense (DoD) declined to grant Applicant a security clearance. On January 25, 2023, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline F (Financial Considerations, Guideline G (Alcohol Consumption), and Guideline J (Criminal Conduct) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On May 16, 2024, after conducting a hearing, Defense Office of Hearings and Appeals Administrative Judge Charles C. Hale denied Applicant’s security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged that Applicant had criminal and alcohol related offenses, and financial concerns including two Chapter 13 bankruptcy filings, a Chapter 7 Bankruptcy discharge, tax debts owed to Federal and state tax authorities, and a charged-off credit card debt. Additionally, the SOR alleged that Applicant was sued by various homeowners and condominium associations for non-payment of dues in at least 11 separate civil actions and that he was the subject of four foreclosure proceedings. Applicant admitted all of the SOR allegations with explanations. The Judge found in his favor for the Guideline G and J allegations and against him on all of the Guideline F allegations.

In his appeal brief, Applicant does not allege the Judge committed harmful error, but argues for reconsideration of certain efforts he has made to resolve debts, includes additional argument as to the current status of some debts, and submits new and previously considered evidence. Consistent with the following, we affirm.

### **Judge's Findings of Fact and Analysis**

Applicant is in his mid-40s and has been employed by a defense contractor since 2022. He is married and has two children. Applicant has a history of financial delinquencies, including a Chapter 7 bankruptcy discharge in 2010, and Chapter 13 filings in 2020 and 2021; both dismissed. His bankruptcies were primarily filed because of a failed property management business venture that resulted in judgments and foreclosures of rental property resulting in a discharge of about \$1.6 million in debt. Applicant was also sued by various homeowners and condominium associations for nonpayment of dues in at least 11 civil actions since 2009. He was the subject of four foreclosure actions; two in 2009 and two in 2013 and 2017, including for his current home for which he is behind about a year in mortgage payments. He is also delinquent in Federal and state income taxes. The Judge found that Applicant has a history of irresponsible financial behavior that was not sufficiently mitigated.

### **Discussion**

In his appeal brief, Applicant argues for reconsideration of certain efforts he has made to resolve debts, includes additional argument as to the current status of some debts, and provides additional evidence for consideration.

We have often stated that a security clearance adjudication is not a proceeding aimed at collecting an applicant's debts. Rather, it is a proceeding aimed at evaluating an applicant's judgment, reliability, and trustworthiness. *E.g.*, ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). The scope of Guideline F encompasses not only an Applicant's current financial situation, but also extends to his or her financial history. As a general rule, an applicant is not required to be debt-free nor to develop a plan for paying off all debts immediately or simultaneously. *E.g.*, ISCR Case No. 09-08462 at 4 (App. Bd. May 31, 2011). However, an applicant must act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by concomitant conduct even if it may only provide for the payment of debts one at a time. ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008). With regard to additional or clarifying evidence presented on appeal, the Appeal Board is prohibited from considering new evidence on appeal and does not review cases *de novo*. Directive ¶ E3.1.29.

Applicant has not established that the Judge committed harmful error. Our review of the record reflects that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, which 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). "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." AG ¶ 2(b).

**ORDER**

The decision in ISCR Case No. 22-02087 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski  
Administrative Judge  
Chair, Appeal Board

Signed: Gregg A. Cervi

Gregg A. Cervi  
Administrative Judge  
Member, Appeal Board

Signed: James B. Norman

James B. Norman  
Administrative Judge  
Member, Appeal Board