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: February 10, 2025

In the matter of:	)	
	)	
-----	)	ISCR Case No. 24-00843
	)	
Applicant for Security Clearance	)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT
Andrea M. Corrales, Esq., Deputy Chief Department Counsel

FOR APPLICANT
Samir Nakhleh, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On June 6, 2024, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline F (Financial Considerations) 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 December 12, 2024, Defense Office of Hearings and Appeals Administrative Judge Roger C. Wesley denied Applicant security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Discussion

The SOR alleged three consumer debts owed to the same creditor and delinquent for approximately $45,000. Applicant disclosed the three debts in his May 2023 security clearance application, explaining that they resulted from a "debt reduction scam," in which his credit cards "were maxed out by a reduction company" that later stopped responding to his emails and phone calls. File of Relevant Material (FORM) Item 3 at 45-47. During his September 2023 interview,

Applicant asserted that, after communications with the debt reduction company ceased, he contacted the actual creditor for the debts at the end of 2022 and was working to reduce the fees charged by the fraudulent company and establish a payment plan. FORM Item 6 at 2.

In his June 11 and July 9, 2024, responses to the SOR, Applicant admitted the debts and reiterated his previous explanation for how they were incurred and became delinquent, and he requested that his case be decided based on the written record. He also provided documentation reflecting that he had – the same day as his initial SOR response – established payment plans with the creditor, including the agreed-upon payment schedule for each debt and, later, handwritten notes reflecting lump amounts paid. Applicant was provided a complete copy of the Government's FORM on August 21, 2024, and was notified of his ability to respond with any objections or additional information for the Judge to consider. Applicant did not respond to the FORM and the Judge found against him on all allegations.

Applicant has not challenged any of the Judge's specific findings of fact. On appeal, he argues that the Judge erred in failing to comply with the provisions in Executive Order 10865 and the Directive by not considering all the evidence and by not properly applying the mitigating conditions and Whole-Person Concept. Applicant's arguments on appeal simply advocate for an alternative weighing of the evidence, which is not enough to show that the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). For example, he argues that the Judge erred in failing to apply mitigating factor AG ¶ 20(d) – initiation and adherence to a good-faith effort to repay overdue creditors or otherwise resolve debts – because he "proactively contacted [the creditor], negotiated a settlement, and committed to a repayment plan," which "actions reflect a genuine intent to fulfill his financial obligations." Appeal Brief at 8. He contends that his "consistent efforts to address these debts demonstrate a serious commitment to financial responsibility, aligning with the intent of this mitigating factor." *Id*. This argument is unpersuasive.

Although Applicant provided the payment *schedules* established when he entered the agreements on June 11, 2024, there is no documentation in the record regarding how many payments he actually made pursuant to them, if any. Despite that the Government identified this evidentiary hole (*see, e.g.*, FORM at 4), Applicant declined to provide documentation of payments when given the opportunity to respond to the FORM. Finding that "Applicant provided no documentation of any payments made . . . on his three referenced accounts," the Judge concluded that Applicant's "[h]andwritten payment claims without proper documentation represent no more than promises to resolve his still outstanding debts and are not viable substitutes for a track record of paying debts in a timely manner and otherwise acting in a responsible way." Decision at 3, 6.

The Board has long held that, until an applicant has a "meaningful financial track record," it cannot be said "that he has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts." ISCR Case No. 01-21386 at 2 (App. Bd. Jun. 11, 2003). The Judge's conclusion that Applicant's recent efforts and minimal documentation were insufficient to establish such a track record or fully mitigate the financial concerns was reasonable and sustainable.

Conclusion

Applicant has not established that the Judge's conclusions were arbitrary, capricious, or contrary to law. In the instant case, the Judge examined the relevant evidence, weighed the disqualifying and mitigating evidence, and articulated a satisfactory explanation for the decision. The record is sufficient to support that the Judge's findings and conclusions are sustainable. "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. 24-00843 is **AFFIRMED**.

Signed: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: James B. Norman
James B. Norman
Administrative Judge
Member, Appeal Board

Signed: Allison Marie
Allison Marie
Administrative Judge
Member, Appeal Board