

KEYWORD: Guideline F

DIGEST: The Judge concluded that Applicant had not demonstrated responsible behavior as to a number of his delinquent debts. Adverse decision affirmed.

CASENO: 09-00651.a1

DATE: 11/20/2009

DATE: November 20, 2009

In Re:)	
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Applicant for Security Clearance)	
)	
)	
)	ISCR Case No. 09-00651

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On May 28, 2009, DOHA 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 September 8, 2009, after the hearing, Administrative Judge Carol G. Ricciardello denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge erred in her application of the mitigating conditions and whether the Judge's adverse security clearance decision is arbitrary, capricious, or contrary to law. Finding no error, we affirm.

The Judge found that Applicant had numerous delinquent debts, which were caused in part by his decision to assist family members with their own financial problems. For example, he had lent a family member two credit cards, upon which she made substantial charges. Additionally, he permitted another to live in one of his two houses, making the mortgage payments. However, this relative failed to make the payments as promised. Although the Judge found in Applicant's favor for several of the debts, she concluded that he had not demonstrated responsible behavior as to the remainder. During the course of the hearing, Applicant admitted to an additional debt not alleged in the SOR. The Judge did not consider this debt "for disqualifying purposes." However, she stated that she would consider it as an aspect of Applicant's financial history and as part of her "whole-person" analysis. Decision at 3, n. 5.

After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for the decision, "including a 'rational connection between the facts found and the choice made.'" *Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). The Judge's decision that "it is clearly not in the interests of national security to grant Applicant eligibility for a security clearance" is sustainable on this record. Decision at 8. "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).

Order

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Jean E. Smallin

Jean S. Smallin
Administrative Judge
Member, Appeal Board

Signed: William S. Fields

William S. Fields
Administrative Judge

Member, Appeal Board

Signed: James E. Moody

James E. Moody

Administrative Judge

Member, Appeal Board