

KEYWORD: Guideline F

DIGEST: Applicant argues that his circumstances do not raise security concerns. The Directive presumes a nexus, or a rational connection, between admitted or proved circumstances under any of the Guidelines and an applicant's eligibility for a clearance. Applicant admitted most of the debts and the Judge found they were also established by the evidence. The Judge reasonably concluded that Applicant's extensive delinquent debts raise a concern that he may lack qualities essential to protect classified information. Given the extent of Applicant's debts, the paucity of evidence of actual debt resolution and the timing of his efforts to contact creditors, we conclude that the Judge's adverse decision was consistent with the record. Adverse decision affirmed.

CASENO: 15-05305.a1

DATE: 12/22/2016

DATE: December 22, 2016

In Re:)	
)	
----)	ISCR Case No. 15-05305
)	
Applicant for Security Clearance)	

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 security clearance. On February 16, 2016, 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 October 12, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge LeRoy F. Foreman 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 concluding that Applicant’s circumstances raised security concerns and whether the Judge’s adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge’s Findings of Fact

Applicant works for a Defense contractor and has held a clearance since 2009. He served in the Reserves from 1994 until 2008. Applicant has a bachelor’s degree and about \$110,000 in student loans. His SOR lists several delinquent debts, for such things as a past-due mortgage, several credit cards, a student loan past due in the amount of over \$960, an automobile loan, and medical expenses. He attributed these debts to “bad communication and lack of teamwork between him and his wife.” Decision at 2. Most of the debts are in Applicant’s name because his wife has a bad credit record. Applicant earns about \$52,000 a year and his wife, a nurse, earns about \$80,000. Applicant borrowed about \$6,000 from his 401(k) plan to pay for his daughter’s tuition. His net monthly remainder is between \$1,500 and \$2,000.

The Judge’s Analysis

The Judge concluded that Applicant’s financial problems raised two disqualifying conditions: 19(a)¹ and 19(c).² The Judge stated that Applicant’s wife’s financial irresponsibility was a circumstance beyond his control but that Applicant had not shown responsible action, in that he entrusted her with credit cards and relied on her to make payments. The Judge noted that Applicant had contacted his creditors only after he realized that his clearance was in jeopardy. The Judge also stated that Applicant had not made payments on his debts, concluding that his presentation consisted more of promises for future action than evidence of a track record of debt resolution.

Discussion

¹Directive, Enclosure 2 ¶ 19(a): “inability or unwillingness to satisfy debts[.]”

²Directive, Enclosure 2 ¶ 19(c): “a history of not meeting financial obligations[.]”

Applicant states that his financial problems do not evidence “a lack of self-control or a willingness not to abide by the rules.” Appeal Brief at 1. We construe this as an argument that his circumstances do not raise security concerns. The Directive presumes a nexus, or a rational connection, between admitted or proved circumstances under any of the Guidelines and an applicant’s eligibility for a clearance. *See, e.g.*, ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016). In this case, Applicant admitted all of the debts, save one, and the Judge found that the debts were also established by the evidence that Department Counsel presented. The Judge could reasonably draw a rational connection between Applicant’s extensive delinquent debts and a concern that he may be lacking in qualities essential to protecting classified information.

Applicant argues that he had mitigated the concerns raised by his financial problems. However, given the extent of Applicant’s debts, the paucity of evidence of actual debt resolution, and the timing of his efforts to contact his creditors, we conclude that the Judge’s adverse conclusions were consistent with the record that was before him. *See* ISCR Case No. 14-04565 at 2 (App. Bd. Sep. 18, 2015) for the proposition that promises to pay delinquent debts in the future are not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner.

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, Enclosure 2 ¶ 2(b): “Any doubt concerning personnel being considered for access to classified information 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: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board