

KEYWORD: Guideline F

DIGEST: An unsatisfied debt is a continuing course of conduct for purposes of DOHA adjudications. Adverse decision affirmed.

CASENO: 10-11083.a1

DATE: 12/18/2012

DATE: December 18, 2012

In Re:)
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-----) ISCR Case No. 10-11083
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)
Applicant for Security Clearance)
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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 April 11, 2012, 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 19, 2012, after the hearing, Administrative Judge Edward W. Loughran 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 properly applied the whole-person factors and whether the Judge's adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm the Judge's decision.

The Judge made the following findings pertinent to the issues raised on appeal: Applicant has held a security clearance since 2008. She attended undergraduate and graduate school from 1998 to 2004. She took out student loans to pay for a portion of the costs. She became financially strained, and some of her debts became delinquent. The SOR cited to six delinquent debts, including one for \$6,082, a charged-off credit card, alleged under ¶ 1(e). In her response to the SOR, Applicant stated that this debt had been paid in full, and she testified at the hearing to similar effect. In her security clearance interview, however, she stated that she had tried to negotiate a settlement of this debt but that she had not been successful. She made a similar claim in her answer to a DOHA interrogatory question. At the hearing, she asserted that the interview summary did not accurately describe her answers to the interviewer's questions. She testified that she had told the interviewer that she had paid the debt and was trying to have it removed from her credit report. The Judge gave her 30 days after the hearing to submit corroborating evidence of her claim to have paid this debt. She provided no such evidence. The Judge found that she still owed the debt.

In the Analysis, the Judge entered favorable findings on five of the six alleged debts. However, regarding ¶ 1(e), the Judge concluded that Applicant had not accepted responsibility for it. He stated that he found her attitude toward this debt to be "baffling." Decision at 8. Finding that the unresolved debt was ongoing, the Judge concluded that it cast doubt upon Applicant's reliability, trustworthiness, and good judgment. In the whole-person analysis, the Judge stated that he had considered Applicant's case in light of the factors listed in Directive, Enclosure 2 ¶ 2(a). He also stated that he had considered her evidence of good character. However, given what he described as Applicant's "steadfast refusal to accept responsibility for a debt in the face of overwhelming evidence" (Decision at 9), he concluded that she had not mitigated the security concern raised by ¶ 1(e).

Applicant contends that the Judge did not perform an adequate whole-person analysis of her circumstances. For example, she argues that the debt in question was incurred several years ago and, therefore, is not recent. However, an unsatisfied debt is a continuing course of conduct for the purpose of DOHA adjudications. *See, e.g.*, ISCR Case No. 06-23369 at 4 (App. Bd. Aug. 1, 2008). Applicant cites to record evidence, such as her character references, evidence that she is current on her bills, her excellent work record, her having held a clearance for many years, etc. A Judge is presumed to have considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 09-07219 at 5 (App. Bd. Sep. 27, 2012). In this case, the Judge acknowledged Applicant's character evidence. Applicant's brief provides no reason to believe that he did not consider the other evidence Applicant has cited, or that he did not consider all of the evidence in the record. Applicant has failed to rebut

the presumption that the Judge considered all of the record evidence. After considering the record as a whole, we conclude that the Judge's whole-person analysis complies with the requirements of the Directive, in that he considered the totality of her conduct in reaching his decision. *See, e.g.*, ISCR Case No. 08-09511 at 2 (App. Bd. Mar. 3, 2010).

Applicant states that, if she loses her clearance, she is at risk of losing her job. However, the effect that an unfavorable decision may have on an applicant is not relevant or material to a security clearance determination. *See, e.g.*, ISCR Case No. 10-01021 at 3 (App. Bd. Nov. 18, 2011).

The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The decision is sustainable on this record, given the Judge's findings about Applicant's inconsistent statements regarding the debt in question and the lack of corroboration for her claims to have paid the debt. "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 Judge's decision is **AFFIRMED**.

Signed: Jean E. Smallin

Jean E. 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