

KEYWORD: Guideline E; Guideline F

DIGEST: Applicant did not rebut the presumption that the Judge considered all of the evidence in the record, nor did he show that the Judge mis-weighted the evidence. Adverse decision affirmed.

CASE NO: 12-11933.a1

DATE: 08/18/2016

DATE: August 18, 2016

In Re:  -----  Applicant for Security Clearance	) ) ) ) ) ) )	ISCR Case No. 12-11933
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**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 July 24, 2015, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline E (Personal Conduct) and Guide F (Financial Considerations) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Department Counsel requested a hearing. On May 31, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) 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 failed to consider record evidence and whether the Judge failed properly to weigh the evidence. Consistent with the following, we affirm.

### **The Judge's Findings of Fact**

Applicant served in the military from 1998 to 2008 and worked for a Federal contractor for three years thereafter. He experienced unemployment from late 2011 until early 2012, after which he worked for a department store for several months. He has worked for his current employer since mid-2012 and has a part-time job as a barber.

In 2005, Applicant's security clearance and his access to sensitive compartmented information were withdrawn, partly due to his having deliberately omitted financial information from his security clearance application (SCA). In 2009, he completed another SCA, in which he failed to disclose his delinquent debts. In 2012, he completed his current SCA. On this application he failed to disclose his financial delinquencies as well as the 2005 revocation of his clearance. The Judge found that Applicant's explanations for his omissions were not credible.

Applicant's SOR lists several delinquent debts. Applicant stated that his financial problems were affected by a divorce. He provided evidence that he had resolved one debt and was making payments as required on another. However, for the balance, the Judge found that Applicant did not provide proof that he had resolved the debts or that they were the responsibility of his ex-wife.

### **The Judge's Analysis**

The Judge stated that Applicant has a long history of completing SCAs and holding clearances. She did not find credible his explanations for his failures to have disclosed material information, such as his claim that he was distracted during completing his SCAs and that he was not aware of his financial situation. She found that Applicant's omissions were deliberate. She stated that his repeated failures to be honest cast doubt upon his reliability, trustworthiness, and good judgment, resolving the Guideline E allegations adversely to him.

Regarding the Guideline F allegations, the Judge found that there is "significant evidence his conduct is likely to recur and did not occur under unique circumstances." Decision at 8. The Judge noted Applicant's evidence that his now ex-wife had failed to pay debts and had opened accounts without his knowledge. However, she stated that it had been several years since these events occurred, and yet Applicant had done nothing to resolve his problems. She stated that there is no evidence of financial counseling, nor is there evidence to support Applicant's claim that only some of the debts are his. In the whole-person analysis, the Judge cited to Applicant's military retirement and to his history of financial problems. She stated that his deliberate omissions from his SCAs are of greater concern. She concluded that Applicant had not mitigated the concerns raised in the SOR.

## Discussion

Applicant cites to various pieces of evidence concerning his financial situation, such as his part-time job and his ex-wife's contribution to his financial problems. He argues that he has worked hard to develop a plan for resolving his delinquent debts. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record, nor has he shown that the Judge mis-weighed the evidence. *See, e.g.*, ISCR Case No. 14-05795 at 2-3 (App. Bd. Apr. 26, 2016). Applicant has not specifically raised an issue of harmful error regarding the Guideline E allegations. He states that he was ashamed of his financial situation and cites to his service in the military. To the extent that he is providing context for his omissions, his argument does not undermine the Judge's finding that they were deliberate, nor does it demonstrate that her mitigation analysis was erroneous.

The Judge examined the relevant data 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: Catherine M. Engstrom  
Catherine M. Engstrom  
Administrative Judge  
Member, Appeal Board