



Applicant raises the following issue on appeal: whether the Judge's decision is arbitrary, capricious, or contrary to law. For the following reasons, the Board affirms the Judge's unfavorable security clearance decision.

The Judge made the following findings: Applicant is 40 years old, and has been employed with a federal contractor since 2009. The SOR alleges 33 delinquent debts totaling more than \$182,000. Applicant admits she owes all the debts except for two debts that total about \$1,300. She claimed to have made partial payment on some of the debts but did not provide any proof. She claimed that several of the debts were duplicates, but provided no proof establishing those assertions. She disputes the amount owed on another debt but did not provide any proof of what she believes she owes. Applicant claimed that a student loan debt was deferred, but did not provide proof.

Applicant attributed her financial problems to her 2008 divorce, her husband's failure to pay their children's medical bills, and her failed business. During the life of her business, she failed to pay sufficient federal employee taxes, and as a result she owes \$17,000 to the IRS. As part of the business, she obtained a loan that she defaulted on and a company vehicle that was repossessed. In 2011, Applicant signed a lease for a retail space for another business, but the business never materialized. The lessor wanted her to pay the full term of the lease, even though she never moved into the space. The account was placed for collection. Applicant did not provide any explanation, documentation, or evidence for actions she has taken to resolve her financial problems.

The Judge reached the following conclusions: Applicant's debts are recent and unpaid. She failed to provide sufficient evidence regarding any of the delinquent debts she believed she paid, disputed, or believed were duplicates. She did not provide sufficient evidence that she has resolved any of the delinquent debts. Future financial problems are likely to recur, and that fact casts doubt on her reliability, trustworthiness, and good judgment. Without more specific information about her finances during this period, it cannot be concluded that her financial problems were beyond her control. Applicant failed to mitigate the security concerns arising under Guideline F.

Applicant cites as error the Judge's finding that she has been a federal contractor since 2009. She states that the correct date is 2001. The record evidence does not conclusively establish when Applicant commenced work as a federal contractor, although the record includes employment listings with defense contractors prior to 2009. However, even assuming the Judge erred on this point, a review of the record and the Judge's decision convinces the Board that the error did not affect the outcome of the case. It is therefore harmless.

Applicant references the Judge's finding (on page 2 of the Decision) that she did not provide any proof of what she believes she owes. Applicant states that she did not provide any proof of payments, student loan deferment, and other supporting documentation because of another statement "in [the] findings stating that providing supporting documents, because of the amount of my debt, would still not prove credit worthiness." The Board construes Applicant's assertion as a claim that the language in quotations dissuaded her from submitting documentation about her debts. After a review of the Judge's decision, the Board concludes that no such language appears in the Judge's

findings, nor is any such language implied. There is, however, a comment by Department Counsel in the File of Relevant Material (FORM) which reads, “Applicant has not submitted any documentation in support of these claims, but even if she were to establish all of her claims, she would still have admitted to over \$150,000 in delinquent debt.” Assuming this is the language to which Applicant refers, the Board concludes that the statement from Department Counsel was within the bounds of fair advocacy and could not reasonably be construed as having a deleterious effect upon Applicant’s procedural rights. Contained within the record are clear and detailed statements informing Applicant of her right to submit matters of explanation and/or mitigation in response to the FORM. Applicant has not established procedural error.

Applicant asserts that her student loans have been confirmed as deferred, that credit report duplication errors have been corrected, and that she has retained counsel to aid her in obtaining credit counseling and completing the bankruptcy process. These statements contain new evidence, which the Board cannot consider. Directive ¶ E3.1.29. Applicant requests “reinstatement” of her clearance based on a probationary period of at least three months, so that she can complete her bankruptcy. Applicant requests relief that is not authorized under the Directive and cannot be granted by the Board. *See* ISCR Case No. 02-11419 at 4 (App. Bd. Aug. 27, 2003).

The Board does not review a case *de novo*. 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 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). Therefore, the Judge’s ultimate unfavorable security clearance decision is sustainable.

**Order**

The decision is AFFIRMED.

Signed: Michael Ra'anan  
Michael Ra'anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board