

KEYWORD: Guideline F

DIGEST: Even if Applicant's evidence had been received by the Judge, it is unlikely to resulted in a different decision. Adverse decision affirmed.

CASENO: 14-03574.a1

DATE: 09/02/2015

DATE: September 2, 2015

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In Re: )  
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----- ) ISCR Case No. 14-03574  
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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 Department of Defense (DoD) declined to grant Applicant a security clearance. On August 5, 2015, 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 decision on the written record. On June 23, 2015, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Erin C. Hogan denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: 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. Divorced with two children, she has worked for her employer since late 1998. Her SOR lists 11 delinquent debts. The three largest ones were the result of divorce, although Applicant supplied little detail on this. These three debts were for credit cards. Applicant claims that she was working with a credit consolidation firm that chose to write the debts off rather than arrange for their payment. Applicant did not indicate whether she attempted to contact the creditor. Applicant’s other debts include credit cards and two medical accounts in the amounts of \$52.00 and \$38.00. The larger of the two was listed as having been paid on her most recent credit report.

Applicant provided no information about her overall financial situation (monthly income, expenses, debt payments, etc.). Neither did she provide information about the status of her debts or the quality of her duty performance. Applicant’s most recent credit report lists two additional delinquent debts.

### **The Judge’s Analysis**

The Judge resolved several of the allegations in Applicant’s favor. However, for the three large credit card bills resulting from her divorce and for the remaining medical debt, she entered adverse findings. The Judge stated that Applicant’s contention that her debt consolidation company wrote off the debts was not plausible. She also stated that Applicant provided no explanation for her failure to have resolved the three credit card debts, nor did she supply information about her finances, etc. The Judge noted that Applicant had two additional delinquent debts. In the whole-person analysis, the Judge reiterated that Applicant had not provided evidence sufficient to explain her financial situation.

### **Discussion**

Applicant argues that the Judge misinterpreted her SOR reply, which states the following: “I was working with a debt consolidation company on repaying these debts. In the process, this company chose to write these amounts off instead of working with me.” She contends that she did not mean that her debt consolidation company wrote off the debts. Rather, the company to which she was referring was the creditor. Given the wording that Applicant used, the Judge’s

interpretation was not unreasonable. However, even if the Judge had interpreted this comment in the way Applicant urges on appeal, it is not likely that she would have granted Applicant a clearance. Her adverse decision was based, for the most part, on the amounts of Applicants debts and a lack of evidence concerning such things as the circumstances underlying the debts, explanations for her failure to have addressed them, Applicant's overall financial picture, etc. Therefore, even if the Judge erred, it was harmless. The Judge's material findings of security concern are supported by substantial record evidence. *See, e.g.*, ISCR Case No. 14-01607 at 3 (App. Bd. Apr. 9, 2015).

Applicant states that her response to the Judge "must not have been received." Appeal Brief at 1. Normally, we cannot consider new evidence on appeal. Directive ¶ E3.1.29. However, we have done so from time to time in order to resolve issues of due process. *See, e.g.*, ISCR Case No. 11-07169 at 1 (App. Bd. Nov. 18, 2013). In this case, Applicant includes certain documents that she states she had submitted to the Judge for inclusion in the record. She has provided no corroboration for this assertion, such as postal receipts, USPS tracking documents, etc. In any event, even if the material in question had been submitted to the Judge it is unlikely that the decision would have been different.

Applicant cites to her SOR reply in arguing that the Judge erred in her overall conclusion. Applicant's arguments are not enough to rebut the presumption that the Judge considered all of the evidence. Neither is it sufficient to show that she weighed the record evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-00597 at 3 (App. Bd. Jul. 16, 2015). 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: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge

Member, Appeal Board

Signed: James E. Moody \_\_\_\_\_

James E. Moody

Administrative Judge

Member, Appeal Board