

KEYWORD: Guideline F

DIGEST: Given the record, the Judge’s conclusion that Applicant had not resolved the concerns arising from his delinquent debts was reasonable. Evidence that a creditor is no longer seeking enforcement of a debt and has written it off, does not establish that the debt has been resolved in a way that mitigates security concerns arising from it. Adverse decision affirmed.

CASENO: 14-03732.a1

DATE: 12/21/2015

DATE: December 21, 2015

In Re:

Applicant for Security Clearance

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ISCR Case No. 14-03732

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 September 6, 2014, 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 October 15, 2015, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Richard A. Cefola 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 Government contractor. He states that he was a victim of credit card fraud and that he did not make a majority of the charges on the past-due debts. He corroborated his claim of identity theft by providing correspondence from his medical provider that its IT system had been compromised.

One of the SOR debts is a judgment in the amount of over \$13,000, which is supported by a recent credit report. Applicant attempted to dispute this judgment with the court, but he was not successful. The creditor has written this judgment off as a business loss. The Judge found that it was still outstanding.

The three remaining debts are owed to a single creditor. These debts total over \$17,500. They too are supported by Applicant’s credit report. The creditor sued Applicant, but the case was dismissed “without prejudice” because the parties had agreed to resolve it between themselves. However, although Applicant offered a settlement, the creditor counter-offered, and the record contains no evidence of further action.

The Judge’s Analysis

The Judge stated that Applicant has “significant past-due debts and an outstanding judgment, which he has not resolved.” Decision at 3. Though noting Applicant’s disputes as to the amounts owed, the Judge stated that Applicant had not addressed the debts that he admits are his. The Judge concluded that Applicant had failed to mitigate the concerns arising from his financial problems.

Discussion

Applicant cites to evidence that he had disputed the debts. He also notes evidence that his private information may have been hacked and that the creditor owning the judgment has written it off. The Judge made findings about the evidence that Applicant has cited. The Judge’s comment that Applicant had not paid even the amounts that he admits were legitimate is supported by the record. *See, e.g.*, Item 4, Interview Summary, at 5: “In hindsight [Applicant] believes the more

correct approach would have been to make payments covering charges he was responsible for while he continued to dispute the balance of the account.” We also note that the compromise of Applicant’s personal information occurred in late 2014, long after Applicant’s financial problems had arisen. Letter from Insurance Company, dated March 5, 2015. Applicant has not rebutted the presumption that the Judge considered all of the evidence. *See, e.g.*, ISCR Case No. 12-08412 at 2 (App. Bd. Sep. 11, 2015).

Given the record that was before him, the Judge’s conclusion that Applicant had not resolved the concerns arising from his delinquent debts was reasonable. Evidence that a creditor is no longer seeking enforcement of a debt and has written it off as a business expense does not establish that the debt has been resolved in a way that would necessarily mitigate security concerns arising from it. *See, e.g.*, ISCR Case No. 10-03656 at 3 (App. Bd. Jan. 19, 2011) (Non-collectability of a debt does not constitute a good-faith effort to resolve it). 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