

KEYWORD: Guideline F

DIGEST: Promises to pay delinquent debts are not a substitute for a track record of timely payments and other financially responsible conduct. Adverse decision affirmed.

CASENO: 14-04565.a1

DATE: 09/18/2015

DATE: September 18, 2015

In Re:)	
)	
-----)	ISCR Case No. 14-04565
)	
Applicant for Security Clearance)	
)	

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 October 15, 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 April 23, 2015, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Martin H. Mogul 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 is single. She served in the U.S. military from 2004 until 2009, when she was discharged due to a medical problem. Her SOR lists several delinquent debts, totaling over \$13,000, most of which the Judge resolved in her favor. Four, however, he concluded had not been mitigated. These were accounts that had been charged off and/or sent to collection and that totaled over \$10,000. The Judge noted Applicant’s statements to the effect that she had entered into agreements for two of them, although she submitted little evidence showing a track record of payment. The largest of these four, a charged off account of over \$7,000, had been the subject of settlement negotiations that had not resulted in an agreement.

Applicant attributed her financial problems to unemployment following her discharge from the military. She states that she now has stable employment and has either paid off some of her debts or is complying with payment arrangements. Applicant’s budget shows a net monthly remainder of \$1,000.

The Judge’s Analysis

The Judge cited to evidence that Applicant had resolved a number of her smaller debts but that her two largest ones remained unresolved or unreduced by the close of the record. He also noted that she had demonstrated only one payment on the next largest debt. He concluded that Applicant had not demonstrated responsible action in regard to her debts.

Discussion

Applicant’s brief includes matters from outside the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. She cites to her efforts to resolve her largest debts, arguing that the Judge did not consider them. A Judge is presumed to have considered all of the evidence in the record, and Applicant’s argument is not enough to rebut that presumption. *See, e.g.*, ISCR Case No. 14-00597 at 3 (App. Bd. July 16, 2015). Applicant argues for an alternative interpretation of the evidence, which is not enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *Id.*

Given the Judge’s sustainable findings about Applicant’s financial situation as of the close of the record, including her monthly bank balance, we cannot say that his analysis of Applicant’s case for mitigation was erroneous. Regarding her largest debt, Applicant stated in her reply to the SOR that she intended to resolve it at some point in the future. However, promises to pay off delinquent debts in the future are not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner. *See, e.g.*, ISCR Case No. 14-03069 at 3 (App. Bd. Jul. 30, 2015). Moreover, we conclude that the Judge did not err in the weight that he extended to the two debts that were the subject of payment plans, given the relative paucity of evidence that would show actual payments over a period of time.

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 Y. Ra’anan
Michael Y. Ra’anan
Administrative Judge
Chairperson, 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