

KEYWORD: Guideline F

DIGEST: The Judge’s material findings are sustainable. Adverse decision affirmed.

CASENO: 15-01967.a1

DATE: 08/19/2016

DATE: August 19, 2016

|   |                                 |                        |
|---|---------------------------------|------------------------|
| In Re:<br><br>-----<br><br>Applicant for Security Clearance | )<br>)<br>)<br>)<br>)<br>)<br>) | ISCR Case No. 15-01967 |
|---|---------------------------------|------------------------|

**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 November 9, 2015, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E

(Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On June 9, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge LeRoy F. Foreman 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 erred in his findings of fact and 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 has held a clearance since 1991. He was granted a Chapter 7 bankruptcy discharge in 1995. He stated that his wife had lost her job, causing them to fall behind on their bills. At the hearing he testified that the couple had a new house, a new child, and overcharged their credit cards. When he completed his security clearance application (SCA), he answered "no" to all financial questions. He told the clearance interviewer that they had had an "overwhelming amount of home repairs and car repairs," so that he was not able to make timely payments on his mortgage. Decision at 2. He testified that they walked away from their mortgage due to violence in the neighborhood. They turned down an offer from the lender to refinance the loan. During his clearance interview, he stated that he had failed to disclose some of his debts due to oversight. At the hearing, he testified that he had not reviewed his credit report prior to completing his SCA and skipped over the financial questions. He stated that he did not go back and correct his answers. He stated that his supervisor was pressuring him to complete his SCA and he submitted it hurriedly, without realizing that he had left his financial problems undisclosed.

In mid-2013, Applicant filed for Chapter 13 bankruptcy protection. The petition was dismissed in late 2014 due to non-payment.

The SOR listed 17 debts, totaling over \$123,000. The Judge found that some of the debts had been resolved, including the largest ones resulting from the foreclosure of his home. He also found that some of the allegations did not contain sufficient information to put Applicant on notice. For others, however, the Judge found that the debts were not resolved.

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

The Judge resolved several allegations for Applicant. However, regarding the seven that he found against him, the Judge stated that the debts were numerous and that they were not incurred under circumstances that would make them unlikely for recurrence. He found that Applicant's financial problems did not yet appear to be under control, nor had Applicant demonstrated good-faith efforts to resolve the debts. Regarding Guideline E, the Judge cited to evidence that Applicant knew that he had significant financial problems at the time he completed his SCA. He stated that Applicant is an experienced and well-educated adult and, under the circumstances, the Judge found his explanations for his omissions to be unconvincing. He stated that Applicant had not attempted to correct his omissions and that they were perpetuated by his continuing denial of wrongdoing.

## Discussion

Applicant challenges the Judge's finding that his omissions were deliberate. Given the Judge's finding about Applicant's education and his experience in holding a clearance, the challenged finding is supported by substantial evidence. Applicant contends that the Judge erred in finding that he owed over \$123,000 in debts. However, the finding merely stated the total amount alleged in the SOR. The total amount of debts that the Judge resolved adversely to Applicant was significantly less. The Judge's material findings are supported by "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." Directive ¶ E3.1.32.1. *See* ISCR Case No. 14-04226 at 3 (App. Bd. Aug. 18, 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: James E. Moody

James E. Moody  
Administrative Judge  
Member, Appeal Board

Signed: James F. Duffy

James F. Duffy  
Administrative Judge  
Member, Appeal Board