

KEYWORD: Guideline F

DIGEST: The Judge has articulated a satisfactory explanation for his conclusions. Favorable decision affirmed.

CASENO: 07-01979.a1

DATE: 04/09/2008

DATE: April 9, 2008

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In Re: )	
)	
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)	
)	
Applicant for Security Clearance )	
_____ )	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

Alison O’Connell, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On July 18, 2007, DOHA 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 December 20, 2007, after the hearing, Administrative Judge Claude R. Heiny granted Applicant’s request for a security clearance. Department Counsel filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Department Counsel raised the following issues on appeal: whether the Judge erred in concluding that Applicant’s credit reports were insufficient to meet the Government’s burden of proof as to debt cited in the SOR; whether the Judge’s application of the Financial Considerations Mitigating Conditions (FCMC) is arbitrary, capricious, and contrary to law; and whether the Judge’s whole-person analysis is unsupported by the totality of the record evidence. Finding no error, we affirm.

The Judge found that Applicant had two debts, as alleged in the SOR. One, for \$11,832.000, was for a credit card. Applicant settled this debt and currently has a zero balance with the creditor. A credit bureau report from February 2006 lists two accounts with the creditor in question, although three subsequent credit reports, including the most recent, do not list any monies owed to the creditor.

The second debt alleged in the SOR arose from an automobile accident. Applicant had totaled the car, owing \$7,000 on her loan. The insurance company offered her only salvage value, despite the car having a book value of \$7,000. Applicant did not accept the offer of salvage value and assumed the insurance company had then paid off the full value of the car. Years later, she discovered that the insurance company had not paid off the balance of the car loan and that her credit report showed a charged-off debt of \$4,306.

As regards the first assignment of error, the Board concludes that, despite some language that would appear to suggest the opposite, the Judge has determined that the Government met its burden of production. Accordingly, his discussion of Applicant’s credit reports occurred in the context of evaluating the applicability of the possible mitigating conditions. Furthermore, the Board has examined the Judge’s decision in light of the record as a whole. The Judge has articulated “a satisfactory explanation for [his] conclusions, including a rational connection between the facts found” and his ultimate decision, both as to the application of Guideline F mitigating conditions and the whole-person analysis. *See* ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006). The record supports the Judge’s conclusion that Applicant has met her burden of persuasion that it is “clearly consistent with the interests of the national security” for her to have a clearance. *See Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). “The Board need not agree with a Judge’s decision in order to find it sustainable.” ISCR Case No. 06-23881 at 2 (App. Bd. November 2, 2007). Accordingly, the Board concludes that the Judge’s decision is not arbitrary, capricious, or contrary to law.

**Order**

The Judge's favorable security clearance decision is AFFIRMED.

Signed: Michael Y. Ra'anan  
Michael Y. Ra'anan  
Administrative Judge  
Chairman, Appeal Board

Signed: Jean E. Smallin  
Jean E. Smallin  
Administrative Judge  
Member, Appeal Board

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