

KEYWORD: Guideline F

DIGEST: Applicant failed to demonstrate responsible behavior in regard to his debts, nor did he establish a meaningful track record of debt repayment. Any error in the Judge’s findings regarding the total amount of Applicant’s debts is harmless. Adverse decision affirmed.

CASENO: 08-11782.a1

DATE: 02/17/2010

DATE: February 17, 2010

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In Re:	)	
	)	
-----	)	ISCR Case No. 08-11782
	)	
Applicant for Security Clearance	)	
	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro Se*

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On June 25, 2009, 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 hearing. On November 20, 2009, after the hearing, Administrative Judge Thomas M. Crean 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 certain of the Judge's findings of fact were supported by substantial record evidence; whether the Judge ignored record evidence favorable to Applicant; whether the Judge's whole-person analysis was erroneous; and whether the Judge's adverse security clearance decision is arbitrary, capricious, or contrary to law. Finding no error, we affirm.

The Judge found that Applicant had numerous delinquent debts for medical expenses, credit cards, telephone services, etc. The total amount of the debt was \$33,434. Although Applicant's financial problems originated in an economic downturn that was outside his control, the Judge concluded that Applicant had not demonstrated responsible behavior in regard to his finances, nor had he established a "meaningful track record" of debt repayment. "He has not presented a concrete systematic plan for resolving his debt problems. He has no payment plans in place, and no methods of saving to pay debts. He has sufficient monthly income to not only meet his present obligations, but to make some payments on delinquent debts." Decision at 8. Accordingly, the Judge concluded that Applicant had failed to meet his burden of persuasion as to mitigation.

Applicant challenges some of the Judge's findings of fact, for example the exact total amount of Applicant's delinquent debts. However, under the facts of this case, the difference in amounts is without security significance. Therefore, if the Judge committed error, it was harmless. *See* ISCR Case No. 01-23362 (App. Bd. Jun. 5, 2006); ISCR Case No. 03-09915 (App. Bd. Dec. 16, 2004); ISCR Case No. 01-11192 (App. Bd. Aug. 26, 2002). Although Applicant contends that the Judge did not consider his testimony concerning his monthly expenses, his presentation on appeal is not sufficient to rebut the presumption that the Judge has considered all the record evidence. *See, e.g.,* ISCR Case No. 07-00196 at 3 (App. Bd. Feb. 20, 2009); ISCR Case No. 07-00553 at 2 (App. Bd. May 23, 2008). Finally, we conclude that the Judge's whole-person analysis complied with the requirements of Directive ¶ E2.2.1, in that the Judge considered the totality of Applicant's conduct in reaching his decision. *See* ISCR Case No. 05-03948 at 3-4 (App. Bd. May 21, 2007); ISCR Case No. 04-09959 at 6 (App. Bd. May 19, 2006).

After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for the decision, "including a 'rational connection between the facts found and the choice made.'" *Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). The Judge's adverse 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).

**Order**

The Judge's adverse security clearance 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