

KEYWORD: Guideline F; Guideline E

DIGEST: Applicant has 20 delinquents and admits to having lived beyond his means. He provided no corroboration for claims that he has disputed some of his debts. Adverse decision affirmed.

CASENO: 09-07440.a1

DATE: 06/24/2011

DATE: June 24, 2011

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In Re:)	
)	
-----)	ISCR Case No. 09-07440
)	
Applicant for Security Clearance)	
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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 May 27, 2010, DOHA 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 April 29, 2011, after the hearing, Administrative Judge John Grattan Metz, Jr., 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 considered all of the record evidence. Consistent with the following discussion, we affirm the Judge’s decision.

The Judge made the following pertinent findings of fact: Applicant is a project manager employed by a Defense contractor. He served in the U.S. Marine Corps and has held a security clearance since 1999. Divorced, Applicant has two children, for whom he is required to pay child support.

Applicant has 20 delinquent debts. He demonstrated that some were paid off and that others were duplicates. However, most of his debts have not been paid. Applicant divorced in 2002 and experienced unemployment from February to August 2008. However, he also admitted that he has lived beyond his means. He has consulted credit counselors, although he began to work with the more recent of the two just prior to the hearing. Applicant provided no corroboration for his assertion that he disputed some of his debts.

On his security clearance application (SCA), Applicant answered “no” to questions asking about any history of adverse judgments, collection accounts, charged-off accounts, accounts 180 days past due or accounts currently over 90 days past due. These “no” answers were not true. Although, in his answer to the SOR, Applicant denied that these answers were deliberately false, he later acknowledged that to be the case.¹ Decision at 3.

In the Analysis portion of the Decision, the Judge concluded that Applicant had failed to demonstrate the applicability of any of the Guideline F mitigating conditions. Though acknowledging that the divorce and unemployment were beyond Applicant’s control, the Judge stated that Applicant had failed to demonstrate responsible action in regard to his debts. Neither had he demonstrated that his finances are under control or that he has a plan to get them under control. The Judge also concluded that Applicant has failed to demonstrate the applicability of any Guideline E mitigating condition.

Applicant contends that the Judge did not take into account all of the record evidence, such as his efforts to pay off his debts and his efforts to further his education. However, a Judge is presumed to have considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 10-01168 at 2 (App. Bd. Apr. 22, 2011). Applicant’s presentation on appeal is not sufficient to rebut that presumption.

¹See Letter, dated December 9, 2010: “I . . . would like to apologize for my lack of integrity while submitting my E-Qip Questionnaire in 2009. I shouldn’t have withheld information from the government[.]”

The record supports a conclusion 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). *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 Judge’s adverse security clearance decision is AFFIRMED.

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