

KEYWORD: Guideline F

DIGEST: The Judge made findings about Applicant’s most recent bankruptcy filing and about her work record. Applicant’s argument that the Judge did not take into account the circumstances surrounding her bankruptcy filing and her excellent work record is not sufficient to rebut the presumption that the Judge considered all of the evidence in the record. Adverse decision affirmed.

CASENO: 12-01755.a1

DATE: 04/10/2015

DATE: April 10, 2015

In Re:	)	
	)	
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	)	
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. 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).<sup>1</sup> Applicant requested a hearing. On January 29,

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<sup>1</sup>The SOR is undated. DOHA sent the SOR to Applicant accompanied by a letter dated March 7, 2014.

2015, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Elizabeth M. Matchinski 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**

In 1991, Applicant was discharged in Chapter 7 bankruptcy. After that, she and her spouse took out first and second mortgages on a home that they had purchased in 1987. In the mid-2000s, Applicant's spouse stopped working due to medical disability, as a consequence of which their income dropped. They began falling behind on their mortgage payments and on other debts, such as consumer credit obligations. In completing her security clearance application (SCA), Applicant did not disclose any delinquent debts. During her interview, she stated that she had learned about the mortgage delinquency after completing the SCA. In order to save their home, Applicant and her spouse filed for Chapter 13 bankruptcy protection. However, the case was subsequently dismissed at the petitioners' request. Applicant then filed for Chapter 13 bankruptcy protection in her own name only. This too was dismissed due to Applicant's inability to make the payments. Applicant and her spouse have succeeded in modifying their mortgage payments. Applicant subsequently went on family medical leave to care for her spouse. She has incurred medical expenses as a result of his treatment. Among her other debts are a judgment against her to recover the deficiency balance on a repossessed truck and a dental bill that has been sent to collection.

In August 2014, Applicant filed again for Chapter 13 bankruptcy. She completed a credit counseling course prior to filing. Applicant's employment income for the first eight months of 2014 was over \$28,000. She also had some unemployment income, and her husband received over \$17,000 in Social Security Disability payments. She has no cash on hand, no savings, and no checking deposits.

Applicant has an excellent work record, described as a "top-flight employee and an asset to [the] team." Decision at 7. She enjoys a good reputation for honesty and reliability.

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

The Judge stated that Applicant's financial problems were more extensive than alleged in the SOR. She considered non-charged debts as part of the whole-person analysis and mitigation. The Judge noted circumstances that were outside Applicant's control, such as medical problems which limited her and her spouse's ability to work. However, she concluded that Applicant had mismanaged her finances, including purchasing a timeshare, which the Judge characterized as irresponsible in light of her history of financial difficulties. The Judge gave Applicant credit for paying some of her debts, though stated that a bankruptcy filing in and of itself does not show a good-faith effort to resolve financial problems.

In the whole-person analysis the Judge noted evidence that Applicant had issued an insufficient funds check. She stated that, after dismissal of her 2013 bankruptcy filing, Applicant

did little to resolve her debts until a year later, when she filed for bankruptcy again. The Judge cited to evidence of Applicant's good work performance. However, she stated that Applicant's failure to address such important debts as home and vehicle loans undermined her effort to show that she had mitigated the concerns in her case.

### **Discussion**

Applicant argues that the Judge did not take into account all of the circumstances surrounding her bankruptcy filing, for example that some of her debts have been paid and others are being repaid through the trustee in bankruptcy. She also argues that the Judge did not take into account that she has worked for many years and has an excellent work record. The Judge made findings about Applicant's most recent bankruptcy filing and about her work record. Applicant's argument is not sufficient to rebut the presumption that the Judge considered all of the evidence in the record. Neither has Applicant shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-01941 at 3 (App. Bd. Mar. 30, 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: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge

Member, Appeal Board