

KEYWORD: Guideline F

DIGEST: Credit reports are generally sufficient to meet the Government's burden of production. Adverse decision affirmed.

CASENO: 14-00631.a1

DATE: 02/13/2015

DATE: February 13, 2015

In Re:	)	
	)	
-----	)	ISCR Case No. 14-00631
	)	
Applicant for Security Clearance	)	
	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Ryan C. Nerney, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On April 2, 2014, 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). Applicant requested a decision on the written record. On November 28, 2014, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Robert J. Tuiden 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**

Applicant has been employed by a Defense contractor since 2013. He attended college for a few months in 1994 and served in the U. S. military—on active duty, in the Reserves, and in the Guard—for over 20 years. Married, Applicant has three children and two stepchildren.

Applicant’s SOR presents two allegations of delinquent debt: a charged-off home equity line of credit (HELOC) in the amount of \$108,744 and a collection account in the amount of \$216 for cable services. Applicant used the HELOC to pay off credit card debts. He claims not to recognize the other debt and is seeking to have it removed from his credit report. He states that his financial problems were related to his inability to return to active duty and consequent reversion to Guard status, resulting in a loss of income. He states that his other accounts are in good standing.

There is no evidence that Applicant has sought credit counseling. He has provided no information showing that the two debts are paid, settled, subject to a payment plan, cancelled, or otherwise resolved. He has been fully employed since at least 2007.

### **The Judge’s Analysis**

The Judge concluded that Applicant’s circumstances raised concerns under Guideline F. He also concluded that Applicant had failed to mitigate these concerns. He stated that Applicant failed to submit sufficient evidence regarding his circumstances, for example any efforts he had made to pay his debts.

### **Discussion**

Applicant argues that “‘conditions that could raise a security concern’ under Guideline F are inapplicable . . .” Appeal Brief at 3. The Government bears the burden of producing evidence regarding allegations that are controverted. Directive ¶ E3.1.14. In such cases, the Government must present substantial evidence, which is “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.” ISCR Case No. 13-01281 at 3 (App. Bd. Aug. 4, 2014). In the case before us, Applicant admitted the HELOC debt. In addition, the Government presented evidence regarding the two SOR debts, including a summary of Applicant’s clearance interview and a credit report. Credit reports are

generally sufficient to meet the Government’s burden of production. *See, e.g.*, ISCR Case No. 10-03668 at 2 (App. Bd. Oct. 5, 2012). Viewing this issue in light of the entire record, we conclude that the Judge did not err in concluding that Applicant’s case raised security concerns.

Applicant cites to his favorable evidence, including his good work record, his military service, and his stated intention to resolve his debts. He contends that the Judge did not consider this evidence. However, this argument is not enough to rebut the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 14-00251 at 4 (App. Bd. Oct. 10, 2014). Applicant’s argument consists in essence of a disagreement with the Judge’s weighing of the evidence. His argument is not sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-00228 at 3 (App. Bd. Oct. 7, 2014). Applicant’s brief cites to other Hearing Office decisions. While we give them due consideration as persuasive authority, Hearing Office decisions are not binding on other Hearing Office Judges or on the Appeal Board. *See, e.g.*, ISCR Case No. 11-14723 at 3 (App. Bd. Oct. 3, 2014).

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

Signed: James E. Moody

James E. Moody  
Administrative Judge  
Member, Appeal Board