

KEYWORD: Guideline F

DIGEST: The security concerns under Guideline F are not limited to the risk of illegal conduct. There are also consideration, of judgment, self-control, etc. Adverse decision affirmed.

CASENO: 14-01479.a1

DATE: 09/02/2015

DATE: September 2, 2015

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In Re: )  
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----- ) ISCR Case No. 14-01479  
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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 Department of Defense (DoD) declined to grant Applicant a security clearance. On June 9, 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 hearing. On June 22, 2015, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Paul J. Mason 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 his debts raised concerns under Guideline F and 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**

Married since 1992, Applicant has two children. He has been employed by a Federal contractor since 2001 and has held a security clearance since 2002. Applicant’s wife experienced some medical problems in the 1990s, for example difficulties encountered during a pregnancy; ill effects from dental treatment, which resulted in her losing her job; and, in 2012, a serious physiological condition for which she was hospitalized.

Applicant’s SOR alleges several delinquent debts, including credit card bills and a loan that Applicant had used for the purposes of paying other bills. Applicant has not communicated with the creditors or made payments on his credit cards or on the loan since 2008. Applicant earns about \$97,000 a year and has a part-time job. He has paid off “several thousand dollars of his wife’s hospital bills.” Decision at 4. He has about \$14,000 in a retirement account.

Applicant has not received financial counseling. About a month and a half prior to the hearing, Applicant implemented a computer program to help him manage his money and bills. He has also found information on line about handling his finances.

Applicant enjoys a good reputation for the quality of his duty performance. He is also lauded for his community involvement, such as coaching soccer.

### **The Judge’s Analysis**

The Judge resolved several of Applicant’s debts in his favor. However, for four of them, totaling about \$55,000, he reached the opposite conclusion. Though noting Applicant’s evidence that his wife’s illness and unemployment affected his financial condition, the Judge found little evidence of responsible action in regard to Applicant’s debts. The Judge stated that waiting until debts become unenforceable due to the statute of limitations does not qualify as responsible action.

In the whole-person analysis, the Judge stated that Applicant should have kept his creditors informed about his financial condition. He also stated that Applicant could have initiated some good-faith effort to pay his debts. The Judge ultimately concluded that Applicant’s unwillingness to address his credit card and loan debts undercut his case for mitigation.

## Discussion

Applicant states that he has no need to engage in illegal acts to pay his debts. We construe this as an argument that his financial problems do not raise security concerns. However, the concern under Guideline F is not simply that an applicant might be tempted to compromise classified information in order to pay his debts. A Judge should also consider the extent to which an applicant's circumstances cast doubt upon his judgment, self control, and other characteristics essential to protecting national security information. *See, e.g.*, ISCR Case No. 14-00812 at 3-4 (App. Bd. Jul. 8, 2015). The Judge did not err in concluding that Applicant's history of delinquent debt raised security concerns.

Applicant argues that he was "thrown off" by his "lack of knowledge of procedures at [the] hearing that I never got to finish all I wanted to say[.]" Appeal Brief at 1. We note that Applicant received a copy of the Directive and pre-hearing guidance from the Chief Administrative Judge, which describe in detail the procedures to be followed at the hearing, including Applicant's burden of persuasion as to mitigation, right to present evidence in furtherance of meeting that burden, and right to employ counsel. Moreover, at the hearing the Judge questioned Applicant on aspects of his financial condition that Applicant had not presented on his own initiative, for example concerning budgeting, financial counseling, etc. *See* Tr. at 52-55. At the end of the hearing the Judge inquired if Applicant had additional evidence to present, and he replied that he did not. Tr. at 62. Applicant received adequate notice of his various rights at the hearing, as well as of the procedures that would be followed. We find no reason to conclude that he was denied a reasonable opportunity to present evidence in mitigation or that he was otherwise denied the due process afforded by the Directive. *See, e.g.*, ISCR Case No. 08-07352 at 2 (App. Bd. Jul. 28, 2009).

Applicant cites to his evidence that the original amount of his debts was less than reflected in his recent credit reports and on the SOR, because of interest and penalties. He also cites to his wife's illnesses as circumstances outside his control. Applicant's arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 14-00812, *supra*, at 3. In presenting his arguments on appeal, Applicant cites to matters from outside the record, which we cannot consider. Directive ¶ E3.1.29.

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