

KEYWORD: Guideline F; Guideline E

DIGEST: Applicant asks the Board to contact Applicant's employer which we have no authority to do. The impact of the Judge's adverse decision is not a relevant part of assessing Applicant's security eligibility. The Board's authority is limited to cases in which the appealing party alleges the Judge committed harmful error. Adverse decision affirmed.

CASENO: 14-04092.a1

DATE: 10/22/2015

DATE: October 22, 2015

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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. On December 8, 2014, DoD 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 August 28, 2015, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Philip S. Howe 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 the Board would reconsider Judge’s adverse decision; whether the adverse impact of the decision should be considered; and whether the Board would contact Applicant’s employer. Consistent with the following, we affirm the decision.

### **The Judge’s Findings of Fact**

Applicant’s debts were discharged in a Chapter 7 Bankruptcy in 2003.

Applicant currently has five delinquent debts, totaling almost \$15,000. Applicant is in a dispute with the IRS that is not alleged in the SOR.

Applicant did not disclose several of his debts nor a vehicle repossession on his e-QIP.

### **The Judge’s Analysis**

The Judge concluded that Applicant’s circumstances raised two concerns: “inability or unwillingness to satisfy debts”<sup>1</sup> and “a history of not meeting financial obligations[.]”<sup>2</sup> In further concluding that Applicant had not mitigated the concerns arising from his delinquent debts, the Judge noted the that the current debts postdate a Chapter 7 bankruptcy from 2003.

The Judge further concluded that Applicant’s omissions were deliberate and found against Applicant under Guideline E.

### **Discussion**

Applicant asks the Board to contact Applicant’s employer. The Board has no authority to do that. *Compare e.g.*, ISCR Case No 14-00434 at 3 (App. Bd. Jan. 20, 2015) (“A Judge has no authority to serve as an investigator.”).

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<sup>1</sup>Directive, Enclosure 2 ¶ 19(a).

<sup>2</sup>Directive, Enclosure 2 ¶ 19(c).

Applicant asks us to consider the impact on him of the Judge's adverse decision. Such an impact is not a relevant part of assessing an Applicant's security eligibility. *See, e.g.*, ISCR Case No. 10-3757 at 2 (App. Bd. Sep. 13, 2011).

Applicant never challenges the Judge's decision. Applicant asks the Board to reconsider the Judge's decision. The Board's authority is limited to cases in which the appealing party alleges the Judge committed harmful error. *See, e.g.* ISCR Case No. 14-03078 at 2 (App. Bd. Jul. 2, 2015).

The Judge examined the relevant data and articulated a satisfactory explanation for the decision, both as to the mitigating conditions and the whole-person factors. 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: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

Signed: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board