

KEYWORD: Guideline f

DIGEST: Applicant challenges some of the Judge's findings of fact. The Judge's findings are based, in part, on Applicant's Answer to the SOR and on the summary of her clearance interview. The Judge's material findings are based upon substantial evidence or constitute reasonable inferences that could be drawn from the evidence. Applicant has cited to no error that likely affected the outcome of the case. Adverse decision affirmed.

CASENO: 15-00327.a1

DATE: 04/15/2016

DATE: April 15, 2016

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In Re: )  
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 ----- ) ISCR Case No. 15-00327  
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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 August 25, 2015, 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 February 2, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Robert E. Coacher 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 Judge’s findings of fact contained errors 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**

Applicant has worked for a Federal contractor since February 2014. Divorced with one child from the marriage, she has never held a clearance. She has a master’s degree.

Applicant’s SOR lists delinquent debts that total a little over \$171,000. These debts are for medical expenses, tax liens, a collection account, and a judgment. The Judge found that these debts are not resolved, except for one that was paid through garnishment. Applicant’s problems resulted from a business that she and her ex-husband operated and that was owned by her ex-husband’s family. Applicant separated from her husband in 2008 and divorced him in 2013. She worked for the business until 2014, acquiring business-related debts during the course of the marriage. She provided no evidence of a budget or an earnings statement. She sought assistance from a tax attorney in 2009 and from a tax service and credit attorney in 2015.

Applicant stated that some of the debts no longer appeared on credit reports. She stated that the tax liens were business-related, although she herself is responsible for about \$16,600 of the more than \$167,000 total obligation reflected by the three liens. In 2009, she hired a tax attorney to work with the IRS but submitted no evidence of any results. She provided a copy of a proposed installment agreement whereby she would pay \$300 a month beginning in December 2015 but included no proof that the IRS had accepted the agreement. She also failed to corroborate her disputes of two medical debts.

### **The Judge’s Analysis**

In concluding that Applicant had not mitigated the concerns arising from her debts, the Judge stated that most of them were not resolved. Though noting circumstances outside Applicant’s control that affected her financial condition, he concluded that she had not shown responsible action. He cited to his finding that Applicant had presented no evidence of favorable results from her having obtained an attorney in 2009 to address her tax problems and stated that there is no evidence that the IRS had accepted the payment plan that her tax service proposed in 2015. Noting that Applicant had resolved one debt through garnishment, he stated that evidence of additional success is lacking. The

Judge credited Applicant with having received financial counseling by virtue of having hired the tax service and credit attorney in 2015.

### **Discussion**

Applicant challenges some of the Judge’s findings of fact, including the date of her divorce, the date upon which she stopped working for her husband’s family’s business, etc. The Judge’s findings are based, in part, on Applicant’s Answer to the SOR and on the summary of her clearance interview. The Judge’s material findings are based upon substantial evidence or constitute reasonable inferences that could be drawn from the evidence. Applicant has cited to no error that likely affected the outcome of the case. *See, e.g.,* ISCR Case No. 12-03420 at 3 (App. Bd. Jul. 25, 2014).

Applicant contends that she did not know that she needed to submit a budget or a copy of her divorce decree. The Directive does not specify the quantum of evidence that applicants should provide, although, in adjudications on the written record, it affords them with an opportunity to submit any and all documentary evidence they believe would assist in presenting their cases. Applicant was advised of her right to submit evidence, by means of the File of Relevant Material, the DOHA cover letter that accompanied it, and the copy of the Directive that DOHA sent her. *See, e.g.,* DOHA Cover Letter, dated October 30, 2015. Applicant has attached to her brief documents that were not included in the record. We cannot consider new evidence on appeal. 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 Y. Ra’anan  
Michael Y. 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