

Applicant raised the following issues on appeal: whether the Judge considered all of the evidence in the record and whether the Judge erred in finding that Applicant's omissions from his clearance application (SCA) were deliberate. Consistent with the following, we affirm.

The Judge's Findings of Fact

Applicant's SOR alleges five delinquent debts, for such things as a judgment against him (over \$21,000), a telecommunications account, a medical debt, a DVD subscription, and a collection account. Applicant provided no documentation to show what action, if any, he had taken to resolve these debts. Neither did he submit evidence of financial counseling, a budget, his income and expenses, etc. When completing his SCA, Applicant failed to disclose the judgment or the other delinquent debts. Applicant provided no evidence regarding his good character, work performance, or track record for handling sensitive information.

The Judge's Analysis

The Judge cited to an absence of mitigating evidence about Applicant's debts. She stated that he presented little in the way of a track record of debt resolution, nor did he show that he had received financial counseling. Regarding Guideline E, the Judge stated that Applicant clearly knew about the judgment and other delinquent accounts, finding that his omissions were deliberate. She held that Applicant had failed to mitigate the concerns raised by his debts and omissions.

Discussion

Applicant cites to his evidence of debt resolution. He has failed to rebut the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ADP Case No. 14-03541 at 3 (App. Bd. Aug. 3, 2015). He states that he has performed his duties for many years without any question as to his integrity. However, an applicant with good or exemplary job performance may engage in conduct that has negative trustworthiness implications. *See, e.g.*, ADP Case No. 08-07290 at 2 (App. Bd. Nov. 17, 2009).

Applicant states that he admitted during his clearance interview that he had answered the financial questions erroneously. To the extent that he is claiming that his omissions were not deliberate, we note first of all that, in his Answer to the SOR, he responded "I admit" to the Guideline E allegation that he had "deliberately failed to disclose any of [his] delinquent debts[.]" Item 2, SOR Answer, at 2. By itself this admission is sufficient to support the Judge's finding.

In addition, we note the following from Applicant's clearance interview: he stated he received documents pertaining to the judgment two years before his interview, which was in 2014. Item 6, Clearance Interview Summary, at 2, 4. Therefore, he would have received these documents sometime in 2012. He completed his SCA in August 2014. Item 3, SCA, at 29. By his own admission Applicant had been aware of the largest of his SOR debts at the time that he completed his SCA. He told the interviewer that he had failed to list any of his debts due to "oversight." Item 6 at 5-6. Although this is evidence that the Judge was required to consider, along with all the other evidence in the record, it is not sufficient to undermine her finding that Applicant had deliberately falsified his SCA. The challenged finding is supported by substantial evidence, that 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.” Directive ¶ E3.1.32.1; *See also* ADP Case No. 08-10098 at 2 (App. Bd. Jan. 6, 2012).

The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. The standard applicable to trustworthiness cases is that set forth in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988) regarding security clearances: such a determination “may be granted only when ‘clearly consistent with the interests of the national security.’” *See, e.g.*, ADP Case No. 12-04343 at 3 (App. Bd. May 21, 2013). *See also Kaplan v. Conyers*, 733 F.3d 1148 (Fed. Cir. 2013), *cert. denied*.

Order

The Decision is **AFFIRMED**.

Signed: Michael Y. Ra’anan
Michael Y. Ra’anan
Administrative Judge
Chairperson, Appeal Board

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

Signed: James F. Duffy
James F. Duffy
Administrative Judge
Member, Appeal Board