

KEYWORD: Guideline F

DIGEST: It is well established that promises to pay off delinquent debts in the future are not a substitute for a track record of timely debt repayment. Adverse decision affirmed.

CASENO: 15-02823.a1

DATE: 07/11/2017

DATE: July 11, 2017

In Re:  -----  Applicant for Security Clearance	) ) ) ) ) ) )	ISCR Case No. 15-02823
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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 December 4, 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 April 28, 2017, after considering the record, 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 issue on appeal: whether the Judge’s decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

## **The Judge's Findings of Fact and Analysis**

Applicant is a 55-year-old employee of a contractor who has held a security clearance since 1998. When his father died in 2003, Applicant and his stepmother were designated co-trustees and beneficiaries of a revocable trust. Applicant attributed the delinquent debts to payment of a lawsuit settlement that resulted in termination of the trust in 2010. Credit reports indicate the debts became delinquent between March and October 2012. In 2013, Applicant filed a lawsuit against his former attorney in the trust lawsuit. Applicant settled this latter lawsuit for about \$250,000 with payments to be made to him in installments starting in 2014.

The SOR lists seven delinquent debts totaling over \$62,000. Applicant provided no documentation showing payments toward any of the delinquent debts. He has done nothing to resolve the listed debts, and the evidence does not show the debts are being resolved or are under control. Absent independent evidence that Applicant is addressing the delinquent debts, they raise ongoing concerns about his current trustworthiness and judgment.

## **Discussion**

Applicant contends that Judge erred in applying the disqualifying and mitigating conditions. He cites that he is willing to pay his debts as soon as he is able to do so without creating more financial burden on himself and highlights facts that support various mitigating conditions. The presence of some mitigating evidence does not alone compel the Judge to make a favorable security clearance decision. As the trier of fact, the Judge has to weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence, or *vice versa*. A party's disagreement with the Judge's weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See e.g.*, ISCR Case No. 15-01652 at 2 (App. Bd. Jul. 7, 2017).

We find no error in the Judge's determination that the evidence does not show the debts are being resolved and raise ongoing security concerns about Applicant's current trustworthiness and judgment. In this regard, we note that Department Counsel's File of Relevant Material (FORM) states Applicant failed to provide any evidence of actions taken to resolve the delinquent debt. Applicant was sent a copy of the FORM and was given 30 days to submit additional information. He did not submit a response to the FORM. It is well established that promises to pay off delinquent debts in the future are not a substitute for a track record of timely debt repayment. *See, e.g.*, ISCR Case No. 07-09304 at 4 (App. Bd. Oct. 6, 2008).

The Judge examined the relevant evidence 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, Encl. 2, App. A ¶ 2(b): "Any doubt concerning personnel being considered for national security eligibility 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 F. Duffy  
James F. Duffy  
Administrative Judge  
Member, Appeal Board