

KEYWORD: Guideline F

DIGEST: Though we give due consideration to the Hearing Office case that Applicant has cited in his brief, it does not provide a reason to disturb the Judge’s adverse decision. In any event, Hearing Office decisions are binding neither on other Hearing Office Judges nor on the Board. Adverse decision affirmed.

CASENO: 15-03085.a1

DATE: 07/14/2017

DATE: July 14, 2017

In Re:	)	
	)	
-----	)	ISCR Case No. 15-03085
	)	
Applicant for Security Clearance	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Ryan C. Nerney, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On October 30, 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 May 5, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Robert J. Kilmartin 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 adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

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

Applicant has held a clearance since 1990. He has a number of delinquent debts, which he disclosed in his security clearance application (SCA). The debts include back Federal income taxes for 2009 and 2010. Although Applicant claims to have set up an installment plan and presented evidence from which it could be inferred that he had paid off the tax delinquencies, he failed to show a regular payment history or to explain how his tax debts became delinquent in the first place. The SOR lists other debts, including a judgment. He did not provide corroboration for many of his claims of payment or that the debts were not owed.

Applicant attributed his financial problems to his wife's serious illness and to his own loss of income. In a 2013 clearance interview, Applicant stated that his employer had not withheld enough tax payments. He also promised to pay each of his debts in full. Applicant is working with a debt verification firm to challenge certain items on his credit report, but he did not submit evidence of a significant amount of work done by the firm.

### **The Judge's Analysis**

Though acknowledging that Applicant had disclosed his delinquent debts, the Judge noted that his presentation depended in large measure upon assertions that debts had been charged off or had fallen off credit reports. He stated that such evidence is not sufficient to mitigate the concerns alleged in the SOR. The Judge concluded that Applicant has not mitigated the Financial Considerations concerns alleged against him.

### **Discussion**

Applicant's argument on appeal is not enough to show that the Judge mis-weighed the evidence. *See, e.g.*, ISCR Case No. 15-08842 at 3 (App. Bd. Feb. 14, 2017). Moreover, though we give due consideration to the Hearing Office case that Applicant has cited in his brief, it does not provide a reason to disturb the Judge's adverse decision. In any event, Hearing Office decisions are binding neither on other Hearing Office Judges nor on the Board. *See, e.g.*, ISCR Case No. 15-01416 at 3 (App. Bd. Feb. 15, 2017).

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

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