

KEYWORD: Guideline F

DIGEST: Applicant challenges the Judge’s findings of fact. Among other things, he cites to evidence that he is currently married, and he argues that the record shows that he has in fact resolved the medical payments. After reviewing the Decision in light of the record as a whole, we conclude that the Judge’s material findings of security concern are supported by substantial evidence or constitute reasonable inferences that could be drawn from the evidence. Adverse decision affirmed.

CASENO: 15-03800.a1

DATE: 07/05/2017

DATE: July 5, 2017

In Re:	)	
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Applicant for Public Trust Position	)	
	)	
	)	
	)	ADP Case No. 15-03800

**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 trustworthiness designation. On December 3, 2015, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—trustworthiness 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 21, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Philip J. Katauskas denied Applicant’s request for a trustworthiness designation. 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**

Never married, Applicant is a high school graduate with some college credits. He has worked at his current job since 2012. His SOR lists several delinquent debts totaling a little over \$18,000. Applicant's answer to the SOR included a copy of a February 2016 credit report that did not show any of the SOR debts. Applicant's financial problems began when he was terminated from employment in January 2008 for disciplinary reasons. He remained unemployed until August 2009, during which time he relied on unemployment compensation, which was not enough to meet routine expenses. He had another year of unemployment, which ended in 2012. Applicant admitted that he has not made payments on his collection accounts since 2008.

Applicant's SOR contains four medical accounts that resulted from emergency room treatment of a dog bite. The incident occurred at his parent's home, but they failed to follow through on their promise to pay for Applicant's treatment. Applicant provided details of his unsuccessful efforts to track down the creditors currently holding these debts.

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

The Judge noted evidence that Applicant's problems were rooted in a job loss due to disciplinary problems, which was a circumstance that was within his control. He stated that there are no clear indications that Applicant's problems are being resolved or are under control, nor is there evidence of any good-faith efforts to resolve the debts at issue here.

### **Discussion**

Applicant challenges the Judge's findings of fact. Among other things, he cites to evidence that he is currently married,<sup>1</sup> and he argues that the record shows that he has in fact resolved the medical payments. After reviewing the Decision in light of the record as a whole, we conclude that the Judge's material findings of security concern are supported by substantial evidence or constitute reasonable inferences that could be drawn from the evidence. Applicant has cited to no harmful error in the Judge's findings. *See, e.g.*, ADP Case No. 15-03377 at 3 (App. Bd. Mar. 9, 2017).

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

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<sup>1</sup>Applicant's application, dated May 26, 2013, states that he has never been married. Item 2 at 23. However, his Response to the SOR includes a reference to his "fiancée (now wife)."

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 Ra'anan  
Michael 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