

KEYWORD: Guideline F

DIGEST: Applicant takes issue with some of the Judge’s findings, which, he contends, put him in an inappropriately bad light. We have considered the totality of Applicant’s arguments and conclude that the Judge’s material findings satisfy the requirements of the Directive for factual sufficiency. Applicant has not cited to any error in the findings that would be likely to change the outcome of the case. Adverse decision affirmed.

CASENO: 15-07118.a1

DATE: 08/18/2017

DATE: August 18, 2017

In Re: _____  Applicant for Security Clearance	) ) ) ) ) ) )	ISCR Case No. 15-07118
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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 March 27, 2016, 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 hearing. On May 31, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Stephanie C. Hess 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 been employed in the Defense industry since 2003. He served in the military from 1990 to 1999. He and his wife have two children. Applicant has financial difficulties that resulted, in part, from his wife's medical problems. These problems entailed expenses as well as his wife's inability to work. In addition, while both Applicant and his wife were employed, they spent money unwisely. They bought a more expensive house and opened several credit cards with 0% interest rates and charged heavily on them. They bought a car for over \$46,000, and Applicant took out a personal loan for \$10,000.

Applicant realized that he had a large amount of debt. He decided to address it himself rather than hire a debt consolidation company. He stopped making payments on his credit card debts for several months, after which the creditors agreed to settle. During the marital separation, Applicant's vehicles were repossessed, the consequent sales leaving a deficiency balance. Applicant bought a used car for himself and one for his wife. Applicant stopped paying his mortgage, and the lender agreed to a modification. When Applicant could not pay the lower amount, and the lender agreed to a short sale, leaving a balance owed of over \$41,000. The house was secured through a VA loan, relieving Applicant from liability for the deficiency. After Applicant and his wife reunited, he borrowed from his 401(k) account to purchase a new car for his family.

Many of Applicant's debts have been charged-off. His unpaid, charged-off debts total over \$33,000. Applicant does not intend to take any action to resolve them. He earns about \$141,000 a year and receives \$500 a month in disability from the military. He also has a delinquent cell phone account and two unpaid medical bills. These were incurred in 2016 and total less than \$1,000. Applicant stated that he had the funds to pay his debts but to do so would affect his ability to address his current expenses. Applicant enjoys a good reputation for his judgment and his handling of sensitive information.

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

The Judge concluded that Applicant has been unable or unwilling to pay his debts and that he has a history of not meeting his financial obligations. In examining Applicant's case for mitigation, the Judge concluded that his financial problems are recent and ongoing. Though noting circumstances outside his control that affected his debts, she concluded that, on the whole, Applicant had not demonstrated responsible action. She stated that his decision to walk away from his debts rather than address them squarely violated the legal obligations that he had undertaken with his creditors. She cited to evidence of his honorable service to the military and his many years of working for Defense contractors. However, she concluded that he had not demonstrated a track record of debt resolution sufficient to mitigate the concerns arising from his financial difficulties.

### **Discussion**

Applicant takes issue with some of the Judge's findings, which, he contends, put him in an inappropriately bad light. He argues, for example, that he did not purchase an expensive new car for his family after he and his wife reunited but, rather, an economical used one. At the hearing, Applicant testified that he "bought a car for the family car." Tr. at 49. He did not specifically state that it was new. The Judge's finding, therefore, may go beyond the evidence, although even if she had found that this car was a used one she would likely have rendered the same ultimate decision. Therefore, to the extent that this is an error, it is harmless. We have considered the totality of Applicant's arguments and conclude that the Judge's material findings satisfy the requirements of the Directive for factual sufficiency: "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. Applicant has not cited to any error in the findings that would be likely to change the outcome of the case.

Applicant contends that his circumstances do not show an inability or unwillingness to pay his debts, nor do they constitute a history of failing to pay his debts. We construe this as an argument that his financial situation does not raise concerns under Guideline F. However, we conclude that Applicant's financial problems, which resulted from his spending on credit cards, expensive cars, etc., in addition to the other things he cites in his brief, raise a concern that he may be lacking in the judgment expected of those with access to classified information. *See, e.g.*, ISCR Case No. 15-01737 at 3 (App. Bd. Feb. 14, 2017). We find no reason to disturb the Judge's conclusion that Applicant's delinquent debts raise Financial Considerations security concerns.

Applicant cites to evidence of his military service, his wife's medical difficulties, and other things that affected his finances. He denies that his debts are ongoing and contends that his decision not to address his charged-off debts shows that he is managing his current finances properly. Applicant's argument is not enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Neither has Applicant rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 13-00502 at 3 (App. Bd. Mar. 7, 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 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