

KEYWORD: Guideline F

DIGEST: The Appeal Board finds no error in the Judge’s determination that Applicant’s handling of the SOR debt continues to cast doubt on his judgment and reliability. Adverse decision affirmed.

CASE NO: 14-02914.a1

DATE: 04/19/2017

DATE: April 19, 2017

In Re:  -----  Applicant for Security Clearance	) ) ) ) ) ) )	ISCR Case No. 14-02914
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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 October 9, 2014, 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 initially requested a decision on the written record, but later requested a hearing. On January 30, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Elizabeth M. Matchinski 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**

A 51-year-old employee of a defense contractor, Applicant admitted that he incurred a credit card collection debt of about \$19,000 (SOR ¶ 1.a) because of his gambling problems. By 2010, he was gambling compulsively in online poker games. He incurred about \$60,000 of credit card debt from this gambling. He ceased gambling in about May 2011, when the Federal Government shutdown the wire transfers that facilitated the online payments. In April 2011, his mortgage was in foreclosure proceedings. He was able to obtain a mortgage loan modification and forestall foreclosure until he was able to sell the home. He made payments to resolve one credit card debt after the creditor brought him to court. In 2012, his wife lost her job, which negatively impacted their financial circumstances.

After receipt of the SOR, Applicant contacted the creditor to resolve the SOR debt. He was told that he needed to verify the debt and take responsibility. He filed a dispute with the collection entity and requested verification of the account. In November 2014, the collection entity advised him it had ceased collection efforts in response to his request and that no further action would be taken "unless and until validation is provided." Decision at 3. He was also notified that, due to the age of the debt, he would not be sued for it. As of January 2016, he was paying other debts, but made no progress in resolving the SOR debt.

As of the hearing, Applicant had not made any payments toward the SOR debt. Through research, he learned the state had a six-year statute of limitations. He chose not to verify his liability for repayment because he would "re-obligate" himself under the statute of limitations. Decision at 4. The debt is scheduled to age off his credit report in March 2017. He does not believe he is shirking his responsibility to the creditor. He testified that he "paid a heavy price for the damage to his credit report," and that the statute of limitations is an example of the consumer protections in place against predatory lending practices, such as high interest rates and fees. *Id.*

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

As of the hearing, Applicant had made no payments on the SOR debt and did not intend to settle or satisfy the debt. He has not shown responsible behavior by refusing to pay a legitimate debt for which he can no longer be sued and that will be coming off his credit report. It may be financially advantageous for Applicant to ignore the debt, but it casts doubt on his judgment and reliability.

### **Discussion**

Applicant contends the Judge erred in concluding security concerns persist about his financial judgment. In doing so, he points to, among other matters, that he has had no delinquencies on his credit report since August 2012, the SOR debt is no longer collectable, and he has substantial

savings. In her decision, the Judge correctly cited Appeal Board cases for the propositions that debts remain relevant for security clearance purposes even if they are no longer enforceable (*See, e.g.*, ISCR Case No. 15-02326 at 3 (App. Bd. Oct. 14, 2016)) and that reliance on a state’s statute of limitations does not constitute a good-faith effort to resolve financial difficulties (*See, e.g.*, ISCR Case No. 15-01208 at 3 (App. Bd. Aug. 26, 2016)). From our review of the record, we find no error in the Judge’s determination that Applicant’s handling of the SOR debt continues to cast doubt on his judgment and reliability.

Applicant presents other arguments claiming the evidence does not support the Judge’s unfavorable clearance decision. For example, he cites to there being no evidence that he currently has a gambling problem, that he has not attempted to conceal derogatory information, that he established he was financially sound, and that he has held a security clearance for 27 years without a security violation. These arguments amount to a disagreement with the Judge’s weighing of the evidence and are not sufficient to show the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-06440 at 4 (App. Bd. Jan. 8, 2016).

Applicant has not identified any harmful error likely to change the outcome of the case. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. “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, Enclosure 2 ¶ 2(b): “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.” The decision is sustainable on this record.

### 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