

KEYWORD: Guideline F

DIGEST: Applicant has numerous delinquent debts, for such things as state and Federal taxes, medical expenses, mortgage payments, a timeshare account, etc. He attributed his financial problems to several periods of unemployment and to reductions in income upon gaining employment. He took out a loan from his 401(k) plan, which resulted in tax liabilities. The Judge found that Applicant had not corroborated his claims of debt resolution. Adverse decision affirmed.

CASENO: 15-04528.a1

DATE: 01/25/2017

DATE: January 25, 2017

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In Re: )	
)	
)	
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)	
Applicant for Security Clearance )	
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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 12, 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 November 9, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Carol G. Ricciardello 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 weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

**The Judge’s Findings of Fact**

Applicant is married with four children. He served in the Reserves, deploying during Operations Desert Shield and Desert Storm. He is college educated.<sup>1</sup>

Applicant has numerous delinquent debts, for such things as state and Federal taxes, medical expenses, mortgage payments, a timeshare account, etc. He attributed his financial problems to several periods of unemployment and to reductions in income upon gaining employment. He took out a loan from his 401(k) plan, which resulted in tax liabilities. The Judge found that Applicant had not corroborated his claims of debt resolution, for example compliance with payment plans, etc.

**The Judge’s Analysis**

The Judge stated that Applicant’s financial problems are recent and, for the most part, unresolved. She did enter favorable findings for some debts, including a large one to the IRS. However, for the balance she concluded that Applicant had not demonstrated responsible action, reiterating her findings about a lack of corroboration for Applicant’s claims of debt reduction. Some of Applicant’s debts had been paid through garnishment, which, she stated, did not evidence a good-faith effort to pay debts. She concluded that Applicant had failed to meet his burden of persuasion.

**Discussion**

Applicant argues that the Judge erred in her finding concerning the reason he had taken out the loan from his retirement account. This finding is consistent with the record evidence. Even if this were an error, however, it was harmless in that it did not likely affect the outcome of the case. *See, e.g.*, ISCR Case No. 14-03601 at 3 (App. Bd. Jul. 1, 2015). The Judge’s material findings are

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<sup>1</sup>Item 2, Security Clearance Application, states at p. 9 that Applicant has a bachelor’s degree.

based upon “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 includes a substantial amount of information in an effort to provide context for the issues of security concern and his efforts at debt resolution. Applicant’s arguments are not sufficient to rebut the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 15-02854 at 2 (App. Bd. Nov. 22, 2016). Neither is it sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-06686 at 2 (App. Bd. Apr. 27, 2016).

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, Enclosure 2 ¶ 2(b): “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.”

### **Order**

The Decision is **AFFIRMED**.

Signed: Michael Y. 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