

KEYWORD: Guideline F

DIGEST: Applicant did not present any information to show that his debts arose from circumstances outside his control or that he had acted responsibly in regard to them. He presented no evidence of financial counseling, budgeting, or evidence that his financial problems are under control. Adverse decision affirmed.

CASENO: 16-00141.a1

DATE: 03/09/2018

DATE: March 09, 2018

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In Re:	)	
-----	)	ISCR Case No. 16-00141
	)	
Applicant for Security Clearance	)	
	)	

**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 June 10, 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 decision on the written record. On November 17, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge David M. White 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 retired as an E-6 from the military and has worked overseas for a Defense contractor since early 2011. He has held a clearance since 1992. Applicant’s SOR lists several delinquent debts, for such things as an unpaid balance on a consumer loan, Federal taxes, automobile repossessions, a credit card, an apartment lease, and a past-due debt resulting from a first mortgage on a home that he purchased in 2015. The Judge found that Applicant had not made regular mortgage payments since late 2015. Applicant entered into a loan modification agreement with his lender but provided no proof that he had made any payments. Applicant and his wife filed for Chapter 13 bankruptcy in 2008, but it was dismissed in 2010 due to failure to make payments. The couple filed again in January and June 2010 but failed to make payments under those proceedings as well. The Judge noted that Applicant had not presented evidence of financial counseling, of a budget, or of his ability to pay his delinquent debts.

### **The Judge’s Analysis**

Applicant did not present any information to show that his debts arose from circumstances outside his control or that he had acted responsibly in regard to them. He presented no evidence of financial counseling, budgeting, or evidence that his financial problems are under control. The Judge concluded that Applicant’s financial problems are likely to recur, noting, among other things, additional delinquencies in a credit report generated after the date of his SOR.

### **Discussion**

Applicant’s appeal includes material from outside the record, including documents that post-date the Judge’s decision. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. Applicant cites to evidence that he has paid some debts, that his bankruptcy filings were done upon the advice of an attorney, and that he purchased only one home in 2015, although the term “first mortgage” might imply that he had bought two. Applicant has not shown that the Judge failed to consider all of the evidence. Neither has he shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 17-00257 at 3 (App. Bd. Dec. 7, 2017). To the extent that Applicant is challenging the Judge’s findings about his efforts at

debt resolution, 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. *See, e.g.*, ISCR Case No. 14-04724 at 3 (App. Bd. Aug. 18, 2017).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, particularly his comments about a paucity of mitigating evidence. 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: James F. Duffy  
James F. Duffy  
Administrative Judge  
Member, Appeal Board