

KEYWORD: Guideline F

DIGEST: Applicant has 24 delinquent debts. These include 22 student loans totaling about \$174,000, a home equity loan for about \$33,000, and a credit card debt for about \$20,000. Adverse decision affirmed.

CASENO: 17-03391

DATE: 07/30/2018

DATE: July 30, 2018

In Re:

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Applicant for Security Clearance

ISCR Case No. 17-03391

## APPEAL BOARD DECISION

### APPEARANCES

#### FOR GOVERNMENT

James B. Norman, Esq., Department Counsel

#### FOR APPLICANT

Ryan C. Nerney, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On October 12, 2017, 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 March 27, 2018, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Gina L. Marine 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 decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

### **The Judge's Finding of Fact**

The SOR alleges that Applicant has 24 delinquent debts. These include 22 student loans totaling about \$174,000, a home equity loan for about \$33,000, and a credit card debt for about \$20,000. He admitted each SOR allegation. He attributed his financial problems to his wife's unspecified periods of unemployment and underemployment beginning in 2012. He vacationed abroad for five days in both 2014 and 2015.

In August 2017, Applicant's credit card debt was charged off, and he later received an IRS 1099-C Form canceling that debt. In September 2017, Applicant proposed a monthly payment plan for his 6 state student loans. In October 2017, a state agency agreed to accept monthly payments of \$300 to resolve them. He made one payment in October 2017. During October 2017, Applicant also settled the home-equity loan for about \$7,600, which came from the proceeds of a 401(k) cash-out. In that month, he further initiated the process of rehabilitating his 16 Federal student loans. In January and February 2018, he made monthly payments of \$205 under that rehabilitation program. He has a non-alleged private student loan for about \$25,000 and indicated that he would make arrangements to pay that account when he was able. Additionally, he claimed he paid other debts, including auto loans, but did not provide details or corroborating documents.

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

The Judge found in favor of Applicant on the home-equity loan that was settled and the credit card debt that was canceled. She found against him on the student loans. While Applicant received credit for initiating action to resolve his student loans, "he has not established a meaningful track record of regular and timely payments pursuant to those agreements." Decision at 6. He also did not establish that he has acted responsibly under the circumstances.

### **Discussion**

Applicant argues that the Judge did not consider and properly weigh all the evidence. He cites to such matters as his payment plans for the student loans, his wife's unemployment, and his work as a Government contractor for a number of years without any security violations. However, the Judge made findings about most of those matters. Applicant's arguments are neither sufficient to rebut the presumption that the Judge considered all of the evidence in the record nor enough 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. 17-00257 at 3 (App. Bd. Dec. 7, 2017). We give due consideration to the Hearing Office case that Applicant cited, but it is neither binding precedent on the Appeal Board nor sufficient to undermine the Judge's decision. *Id.* Additionally, the Judge complied with the requirements of the Directive in her whole-person analysis by considering the totality of the evidence in reaching her decision.

Applicant has not identified any harmful error in the Judge's decision. 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 Ra'anan  
Michael Ra'anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: James F. Duffy  
James F. Duffy  
Administrative Judge  
Member, Appeal Board

Signed: Charles C. Hale  
Charles C. Hale  
Administrative Judge  
Member, Appeal Board