

KEYWORD: Guideline F; Guideline E

DIGEST: In light of the Judge’s decision to give weight to Applicant’s failure to explain the origins of his financial troubles and the substantial amounts of his debts, the Board concludes that even if Applicant’s purported evidence of initiation of repayment of smaller debts and arrangements for the other debts had been received, it is not reasonably likely that it would have resulted in a different outcome. Adverse decision affirmed.

CASENO: 05-04482.a1

DATE: 05/21/2007

DATE: May 21, 2007

In Re:)	
)	
-----)	
SSN: -----)	ISCR Case No. 05-04482
)	
Applicant for Security Clearance)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Julie R. Edmunds, Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On April 7, 2006, DOHA issued a statement of reasons advising Applicant of the basis

for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On October 20, 2006, after considering the record, Administrative Judge Jacqueline T. Williams denied Applicant’s request for a security clearance. Applicant timely appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant has submitted the following issue on appeal: whether the Judge’s finding that Applicant failed to submit proof of debt repayment is based on substantial evidence. Specifically, Applicant asserts that he submitted such proof, but for reasons he does not understand this proof did not make its way into the record. We affirm the Judge’s decision.

Other than the matter referenced above, Applicant does not challenge the Judge’s findings. These findings establish that Applicant had thirteen delinquent debts, totaling about \$37,288, which constitute the security concerns alleged under Guideline F. For five of these debts, Applicant averred that he had paid them or was making arrangements for payment. The Judge stated, however, that “the record is devoid of evidence of payment.” Furthermore, Applicant used his company credit card to pay personal debts not related to his employment, for which he received formal counseling. That circumstance constitutes the security concern alleged under Guideline E.

In examining the issue on appeal, we note that the record demonstrates the following: on April 11, 2006, DOHA provided Applicant a copy of the SOR, which he answered on April 28, 2006. On July 13, 2006, Applicant was provided a copy of the File of Relevant Material (FORM). He did not respond to the FORM within the 30 days allotted. The Judge received the FORM for her decision on August 28, 2006.

In his appeal submission, Applicant states that, on May 6, 2006, he mailed to DOHA documentation which he asserts would substantiate his repayment efforts, but which was not included in the FORM. Having submitted this material by regular mail, Applicant acknowledges that he has no means of corroborating his assertion. In his appeal submission, he describes these matters as follows: “The documentation submitted provided proof of initiating and effort of paying 3 of the smaller bills in full and proof of payment arrangement with others. I also provided a copy of letters submitted to the 3 creditors requesting payment arrangements and or settlement agreements. . . I have paid off several of my [debts] over the [past] 8 years which I believe was not considered.”¹

In her discussion of Applicant’s case, the Judge gave weight to the fact that Applicant never provided a reasonable explanation as to how he got into financial trouble in the first place, that his undisputed debts were of a substantial amount, that the file contained no basis to believe that Applicant ever sought counseling for his financial troubles, and that Applicant attempted to lessen his problems through misuse of his company credit card. Decision at 7. In light of the Judge’s reliance on these matters, and her relative lack of emphasis on repayment efforts, we conclude that, even if the missing information had been included, it is not reasonably likely that it “would have resulted in a different outcome.” ISCR Case No. 03-09915 at 3 (App. Bd. Dec. 16, 2004). Therefore, we affirm the Judge’s decision.

¹Applicant did not provide a copy of these documents and/or their cover letter to corroborate this assertion on appeal.

Order

The Judge's decision denying Applicant a clearance is AFFIRMED.

Signed: Jean E. Smallin
Jean E. Smallin
Administrative Judge
Member, Appeal Board

Signed: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board