

KEYWORD: Guideline F

DIGEST: Applicant disputes a debt of \$1,885 but has made no effort contact the creditor. He has made no effort to pay a debt \$8,784 because it is old, unenforceable and not on his credit report. The Judge concluded that Applicant's handling of his finances casts considerable doubt on whether it is clearly consistent with the national interest to grant Applicant a clearance. The Judge's conclusion is sustainable. Adverse decision affirmed.

CASENO: 06-08904.a1

DATE: 11/28/2007

DATE: November 28, 2007

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In Re:)	
)	
-----)	ISCR Case No. 06-08904
)	
Applicant for Security Clearance)	
_____)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On November 27, 2006, DOHA 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 hearing. On July 17, 2007, after the hearing, Administrative Judge Elizabeth M. Matchinski denied Applicant’s request for a security clearance. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether certain of the Judge’s factual findings were based upon substantial evidence; whether the Judge erred in concluding that Department Counsel had met its burden of production; and whether the Judge erred in her application of the appropriate mitigating conditions. We further construe Applicant’s brief as asserting that the Judge’s whole person analysis is arbitrary, capricious, and contrary to law and that the Judge was biased against Applicant. Finding no error, we affirm.

The Judge made the following findings of fact: Applicant is an engineer working for a defense contractor. He previously worked for a government agency, holding a top secret clearance. His current salary is \$120,000, and his wife earns \$36,572.75. He and his wife have a joint savings account with a balance of \$314,172.12. His retirement assets are \$14,652 and he participates in a savings and investment plan through his employer, the current value of his account being about \$100,000. Applicant has two debts on the SOR, one for \$1,885 and another for \$8,784. These debts have been charged off. Although Applicant has disputed the first debt, he has made no effort to contact the creditor to determine if it is legitimate or not. He has not made any effort to pay off the larger debt, because it is now old, legally unenforceable and no longer maintained on his credit report.

The Judge concluded that Applicant had failed to meet his burden of persuasion in denying the legitimacy of the smaller of the two alleged debts. The Judge noted that, in an interrogatory response, Applicant did not deny the debt but claimed that it was not enforceable. She stated that Applicant had provided no corroboration for his contention that the debt was not his own. She concluded that Applicant’s failure to address these debts while possessing the means to do so impugns his trustworthiness and reliability: “. . . Applicant’s handling of his financial matters casts considerable doubt as to whether it is clearly consistent with the national interest to grant him a security clearance.” Decision at 8.

We have considered Applicant’s assignments of error. We conclude that the Judge’s material findings of security concern are sustainable. *See* Directive ¶ E3.1.32.1. There is no record evidence that the Judge acted in a manner that would lead a reasonable person to question her fairness. *See* ISCR Case No. 04-12911 at 2 (App. Bd. July 25, 2006). We have considered the Judge’s application both of the disqualifying conditions and mitigating factors as well as her whole-person analysis. We conclude that she has drawn a rational connection between her factual findings and her ultimate adverse clearance decision. *See Motor Vehicle Mfrs. Ass’n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). Therefore, we hold that her decision is neither arbitrary, capricious, nor contrary to law. *See* Directive ¶¶ E3.1.32.3 and E3.1.33.3.

Order

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Michael Y. Ra'anan
Michael Y. Ra'anan
Administrative Judge
Chairman, 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