

KEYWORD: Guideline F

DIGEST: Applicant was granted a clearance after hearing in 2012. In the present case his admitted delinquent debts are greater than in the first proceeding. The challenged findings are sustainable. Adverse decision affirmed.

CASENO: 13-01241.a1

DATE: 12/29/2014

DATE: December 29, 2014

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In Re: )	
)	
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)	
)	
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 April 17, 2014, 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 hearing. On October 10, 2014, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Darlene D. Lokey Anderson denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raises the following issues on appeal: whether the Judge’s findings of fact contained errors and whether the Judge’s adverse decision ran contrary to the weight of the record evidence. Consistent with the following, we affirm.

### **The Judge’s Findings of Fact**

Married with six children, Applicant is employed by a Defense contractor. He has held a security clearance for the past twelve years. The SOR alleges that Applicant has numerous delinquent debts, totaling over \$100,000, for such things as cell phone services, credit card debt, vehicle repossessions, etc.

Applicant has a history of financial problems. In mid-2012 he was the subject of a DOHA security clearance hearing regarding delinquent debts totaling about \$70,000. He testified at that hearing that he had hired a debt consolidation firm, to which he made monthly payments of \$800. Based upon evidence that Applicant was addressing his financial difficulties, the Judge in this prior case granted him a clearance. Since that hearing, however, Applicant’s debts have grown. Applicant discovered that he was not able to make his monthly payments to the debt consolidation firm, and the company would not negotiate a smaller payment. He no longer uses the firm.

Applicant’s financial situation resulted from several things. He and his wife opened a business, using \$21,000 from his retirement fund and money borrowed from his family as start-up cash. The store was originally successful, so Applicant and his wife opened up a second. However, Applicant’s daughter, born in 2010, suffered from serious medical problems requiring multiple hospital stays. These medical expenses, accompanied by slumping sales and high operating costs, resulted in Applicant closing both of his stores. By this time, Applicant was struggling to make his mortgage payments on two properties, both of which went into foreclosure. He also used a corporate credit card to pay a \$9,000 hotel bill.

Despite these financial difficulties, Applicant bought his wife a Porsche, with monthly payments of \$1,697. He owes over \$55,000 on this loan.

Some of Applicant’s delinquent debts have been removed from his credit reports. He provided proof of payment for one debt and claims that another, for \$67.91, has been paid.

Applicant earns \$126,000 a year. He believes that his delinquent debts total a little less than \$68,000. His checking account has a negative balance, and he has between \$300 and \$400 in a

savings account. He has received no financial counseling. A post-hearing exhibit, a pay stub, shows that his wages were garnished for about six months last year, in the amount of \$19,418. He states that this left him unable to pay his other debts.

He has enrolled in a debt counseling program with monthly payments of \$580. This program only addresses debts in excess of \$500. Applicant plans to resolve debts of lesser amounts “one at a time.” Decision at 4. Applicant has received favorable work performance ratings. He has received several awards at his job.

### **The Judge’s Analysis**

The Judge concluded that Applicant’s circumstances raised security concerns. In resolving these concerns adversely to Applicant, the Judge stated that he had failed to provide proof of payment or other evidence demonstrating debt resolution. She stated that the record does not show that Applicant can live within his means. She noted evidence provided after the hearing that Applicant has enrolled in the debt counseling program. She stated, however, that there is little likelihood that he will follow through, given his failure to have done so with the previous one.

The Judge stated that Applicant has not demonstrated “a concrete understanding of his financial responsibilities.” *Id.* at 8. She also stated that he has not made a good-faith effort to resolve his debts, concluding that none of the mitigating conditions applied to Applicant’s case. She determined that, under the whole-person concept, the totality of Applicant’s circumstances indicate poor judgment, untrustworthiness, and other characteristics inconsistent with holding a security clearance.

### **Discussion**

Applicant challenges the Judge’s findings of fact, specifically her finding that his debt problems have increased since the prior DOHA decision in 2012. He argues that his credit reports support a finding that his debts have decreased significantly. He also argues that his current repayment plan is reasonable. We examine a Judge’s findings of fact to see if they are supported by “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.

Viewed in light of the record as a whole, the challenged findings are sustainable. Applicant’s contention that he has established a reasonable repayment plan merely argues for an alternative interpretation of the evidence, which is not sufficient to show that a Judge erred. *See, e.g.*, ISCR Case No. 14-00173 at 3 (App. Bd. Aug. 8, 2014). Concerning the extent of his debt problems, we note that Applicant admitted delinquent SOR debts totaling more than was alleged in the prior DOHA case. Viewed as a whole, 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. 12-03420 at 3 (App. Bd. Jul. 25, 2014).

Applicant challenges the Judge's conclusion that he has done little to resolve his debt problems. He also challenges the Judge's opinion that he will not likely succeed with his current payment plan. He argues that this is merely speculative. As we stated above, however, an ability to argue for a different interpretation of the evidence is not sufficient to undermine a Judge's decision. We note the Judge's findings that (1) Applicant was granted a clearance in 2012 despite his delinquent debts; (2) soon after, he stopped making payments on his debt repayment plan; (3) his delinquent debts have increased in number since the earlier DOHA case; and (4) Applicant has made financial decisions that impugn his good judgment, such as mis-using a corporate credit card and purchasing an expensive automobile. These findings support the Judge's adverse decision.

The Judge examined the relevant data 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 Y. Ra'anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

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