

KEYWORD: Guideline F

DIGEST: The Judge's concern about the paucity of mitigating and corroborating evidence is valid. Adverse decision affirmed.

CASENO: 13-01332.a1

DATE: 08/08/2014

DATE: August 8, 2014

In Re:)	
)	
-----)	ISCR Case No. 13-01332
)	
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 February 6, 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 decision on the written record. On June 13, 2014, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Michael H. Leonard denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge considered all of the record evidence and whether the adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge’s Findings of Fact

Applicant has ten collection or charge-off accounts totaling \$12,000. The ten accounts are unresolved. Applicant submitted documentation showing settlement offers for debts alleged in SOR ¶¶ 1.a and 1.b. Applicant alleged that the debt in ¶ 1.a appears also in ¶¶ 1.d and 1.f. Applicant provided no documentation of payments on these debts. Furthermore, the Judge did not find the debts alleged in ¶ 1.d and ¶ 1.f were the same the debt alleged in ¶ 1.a. Applicant asserted that five other debts alleged in the SOR were settled or will be settled. Applicant provided no corroboration for those claims.

The Judge’s Analysis

The Judge concluded that Applicant’s circumstances raised Guideline F concerns. The Judge was not able to conclude that the quantum of evidence provided by Applicant was sufficient to mitigate the government’s security concerns.

Discussion

Applicant submitted new evidence which the Board cannot consider. Directive E3.1.29.

Applicant takes issue with the Judge’s conclusion that three of the debts are not duplicative. A Judge is presumed to have considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 11-107589 at 2 (App. Bd. May 21, 2013). Even if the Judge’s conclusion on this issue was not sustainable, it would not be outcome determinative, given the absence of evidence of payment which was the gravamen of the Judge’s analysis. The Judge’s stated concerns about the paucity of mitigating and corroborating evidence in the record are valid. (In a DOHA adjudication the applicant bears the burden of persuasion as to mitigation. Directive ¶ E3.1.15.)

The record supports a conclusion that the Judge examined the relevant data and articulated a satisfactory explanation for the decision. The Judge’s adverse 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 Ra’anan
Michael Ra’anan
Administrative Judge
Chairperson, Appeal Board

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

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