

KEYWORD: Guideline F

DIGEST: Applicant had not provided any information about her income, expenses, or her husband’s circumstances. The available information was not sufficient to mitigate the concerns arising from Applicant’s delinquent debts. Adverse decision affirmed.

CASENO: 14-00210.a1

DATE: 01/07/2015

DATE: January 7, 2015

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 March 19, 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 October 17, 2014, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Juan J. Rivera 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 adverse decision ran contrary to the weight of the record evidence and, therefore, was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

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

Applicant is employed by a Government contractor. A high school graduate, she and her husband have two adult offspring, one of whom is serving in the U.S. military. Applicant experienced a period of unemployment from the middle of 2012 until the middle of 2013, at which point she was hired by her current employer.

Applicant's SOR alleges four debts that total over \$17,000. ¶ 1(a) refers to a judgment against Applicant in the amount of \$6,423. She claims that ¶ (b), a collection account in the amount of \$9,553, is a repetition of this debt, which arose from a delinquent credit card account. She advised that the account became delinquent in 2006, during a time in which her husband was unemployed due to illness. In her security clearance application (SCA), Applicant claimed that she was negotiating a settlement with the creditor of 1(b). She did not corroborate any contact with this creditor.

In her answer to the SOR, Applicant stated that 1(b) no longer appeared on her credit report but that the debt alleged in 1(a) did appear on it. She stated her belief that these two allegations refer to one underlying debt and that she had filed a dispute with the credit bureaus. She asked that 1(a) be removed from her credit report.

The Judge found that Applicant presented insufficient evidence that the two allegations address the same debt. Neither did she present documentary evidence showing the outcome of her dispute with the credit bureaus. Applicant has not presented documentary evidence to corroborate any payments or other efforts to resolve these debts.

Applicant's November 2013 credit report shows 14 accounts, including the four delinquent ones alleged in the SOR. The Judge stated that, without more evidence, it is not possible to determine if Applicant is financially overextended or living beyond her means.

Applicant demonstrated resolution of the debts alleged at ¶¶ 1(c) and (d). She paid the former and successfully disputed the latter. However, she provided little information about her current earnings and financial position. She provided no information about her monthly income and expenses, any income generated by her husband, or whether her income is sufficient to cover her ordinary expenses. She has provided no information concerning financial counseling or whether she has a budget.

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

The Judge concluded that Applicant's financial circumstances raised concerns under Guideline F.<sup>1</sup> He resolved SOR ¶¶ 1(c) and (d) in Applicant's favor. However, he concluded that she had not met her burden of persuasion regarding the other two allegations. Although he noted evidence that Applicant and her husband had experienced unemployment, which were circumstances beyond their control, he concluded that Applicant had not demonstrated responsible action in regard to the two debts at issue.<sup>2</sup> He noted that she had not presented evidence to show payments or contact with creditors, except for disputing them on the ground that she believes they are not collectible. He also stated that she had provided no information about her income, expenses, or her husband's circumstances. He concluded that the available information is not sufficient to mitigate the concerns arising from Applicant's delinquent debts.

In the whole-person analysis, the Judge cited to evidence that Applicant "seems to be on the path to establish financial responsibility." Decision at 6. However, he reiterated his conclusion that she had not presented enough evidence to show responsible action regarding the two large delinquent debts alleged in SOR ¶¶ (a) and (b).

### **Discussion**

Applicant argues that the Judge did not properly interpret the evidence. She states that the record shows that her remaining debts have been paid rather than merely disputed. To the extent that she is arguing the Judge's findings are erroneous, we conclude that Applicant's admission to the SOR, her statements in the SCA, and her credit report support the Judge's findings. The findings are based upon 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). Given the record that was before him, the Judge's findings and conclusions regarding the absence of corroboration are sustainable.

To the extent that Applicant is arguing that the Judge erred in concluding that the record raised security concerns, we note the evidence described above: Applicant admitted the debt alleged in SOR ¶ 1 (a), both 1(a) and (b) were contained in her credit report, and she discussed her financial problems in her SCA. A credit report itself is often sufficient to meet the Government's burden of producing evidence of security concern. *See, e.g.*, ISCR Case No. 13-00987 at 3 (App. Bd. Aug. 14, 2014). Insofar as the Directive presumes a nexus between admitted or proven conduct and an applicant's security worthiness, the Judge did not err in his conclusion that the evidence raised concerns under Guideline F. *See, e.g.*, ISCR Case No. 14-00114 at 4 (App. Bd. Sep. 30, 2014).

We have examined the Judge's decision in light of the record as a whole. His conclusions about the paucity of mitigating evidence are consistent with the record that was before him. An applicant bears the burden of persuasion to mitigate the concerns raised by his or her conduct or

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<sup>1</sup>See Directive, Enclosure 2 ¶ 19(a): "inability or unwillingness to satisfy debts;" and ¶ 19(c): "a history of not meeting financial obligations[.]"

<sup>2</sup>Directive, Enclosure 2 ¶ 20(b): "the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances[.]"

circumstances. Directive ¶ E3.1.15. In this case, the Judge’s conclusion that Applicant had not met that burden is supportable. His decision did not contravene the weight of the evidence.

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 Ra’anan  
Michael Ra’anan  
Administrative Judge  
Chairperson, 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