

KEYWORD: Guideline F

DIGEST: Applicant cites to information she reports was provided to “The Investigator” and does not understand why it was not considered by the Judge. Applicant was provided a copy of the record to be considered by the Judge and advised of her rights and the procedures to be followed. She did not object or submit additional information. Adverse decision affirmed.

CASENO: 07-13235.a1

DATE: 10/02/2008

DATE: October 2, 2008

|                                  |   |                        |
|----------------------------------|---|------------------------|
| _____                            | ) |                        |
| In Re:                           | ) |                        |
|                                  | ) |                        |
| -----                            | ) | ISCR Case No. 07-13235 |
|                                  | ) |                        |
|                                  | ) |                        |
| 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 January 7, 2008, 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 decision on the written record. On June 30, 2008, after considering the record, Administrative Judge Paul J. Mason 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 findings of fact are supported by substantial record evidence; and whether the Judge’s unfavorable security clearance decision is arbitrary, capricious, and contrary to law. Finding no error, we affirm.

Applicant is 33 years old and a senior contract administrator for a defense contractor. She also has been employed as a bartender since April 2005.

The Judge found that Applicant has delinquent debts, one for a car and another for a “tire account.” Decision at 2. Although the SOR contains three allegations, the Judge found that the first two refer to the same car purchase. Applicant made inconsistent statements concerning her debts and provided no evidence to demonstrate an intent to pay them off. The Judge concluded that Applicant had not met her burden of persuasion, either under the pertinent mitigating conditions or under the whole-person factors. He stated that Applicant “mentioned financial hardships but did not explain what those hardships were. Even though she may have incurred no new debt in the last five years, she still has the two past due accounts; one is more than four years old, and the other is more than seven years old. Failure to pay those two accounts, or resolve past mistakes, demonstrates unwillingness to satisfy debts that has not been mitigated by any of the [Guideline F mitigating conditions].” Decision at 5-6.

We have examined the Judge’s decision in light of the record as a whole. The Judge’s material findings of security concern are supported by substantial record evidence. *See* Directive ¶ E3.1.32.1. (Substantial evidence is “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.”) In support of her appeal, Applicant submitted new evidence not contained in the record, which the Board cannot consider. “No new evidence shall be received or considered by the Appeal Board.” Directive ¶ E3.1.29. Applicant cites to information she reports that she provided to “the Investigator” and does not understand why it was not in the record. A review of the record shows that Applicant was sent a copy of the record to be considered by the Judge, along with a cover letter dated March 6, 2008, which advised her that “If you do not file any objections to the attached material or submit any additional information within 30 days of receipt of this letter, your case will be assigned to an Administrative Judge for a determination based solely on the attached file of relevant material.” The record demonstrates that Applicant submitted no objections or additional information. Her case was processed accordingly.

The Judge has drawn a rational connection between the facts found and his ultimate adverse security clearance decision. *See* ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006). *See also 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)). The Judge's decision that "it is not clearly consistent with national security to grant [A]pplicant eligibility for a security clearance" is sustainable on this record. Decision at 6. *See Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

### **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: Jean E. Smallin  
Jean E. Smallin  
Administrative Judge  
Member, Appeal Board

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