

KEYWORD: Guideline F

DIGEST: A judge is presumed to have considered all the record evidence. Applicant's presentation was insufficient to rebut that presumption. Adverse decision affirmed.

CASENO: 08-05959

DATE: 08/19/2009

DATE: August 19, 2009

In Re:)
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 -----) ADP Case No. 08-05959
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 Applicant for Public Trust Position)
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)

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 trustworthiness designation. On February 27, 2009, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—trustworthiness 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 June 16, 2009, after the hearing, Administrative Judge Carol G. Ricciardello denied Applicant's request for a trustworthiness designation. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge's adverse trustworthiness determination is arbitrary, capricious, or contrary to law. Finding no error, we affirm.

The Judge made the following pertinent findings of fact: Applicant works for a federal contractor in administrative support. Her husband is in the military. Applicant has approximately \$30,770 in delinquent debt. She also has about \$200,000 in student loans. Three of the debts alleged in the SOR are for student loans in collection status, although the Judge noted that Applicant's credit report appears to have contradictory information about the status of the student loans. Other debts alleged in the SOR are for credit card debts, an automobile repossession, a state tax lien, and other similar matters. Although Applicant handles the family money, she does not maintain a budget. She has experienced periods of unemployment in the recent past. Applicant's character references describe her as trustworthy, dependable, and loyal. They state that she has a strong work ethic.

Applicant contends that the Judge did not consider significant record evidence, such as various steps which she has taken to reduce her debt load. However, a Judge is presumed to have considered all the evidence in the record. The matters which Applicant has presented in her brief are not sufficient to rebut that presumption. *See, e.g.*, ISCR Case No. 07-00196 at 3 (App. Bd. Feb. 20, 2009) and ISCR Case No. 07-00553 at 2 (App. Bd. May 23, 2008).

The record demonstrates that the Judge addressed the evidence which Applicant submitted in her own behalf. However, the Judge also considered record evidence that Applicant does not maintain a budget, that she has not followed through on promises to address her debts, and that she has not had financial counseling. The Judge also noted that Applicant's claim to have disputed various debts was not supported by corroborating evidence. The Board concludes that the Judge has "articulate[d] a satisfactory explanation for her conclusions, including a rational connection between the facts found" and her ultimate adverse decision. *See* ADP Case No. 06-12901 at 4 (App. Bd. Jul. 31, 2007). The Judge's decision is sustainable on this record.

Order

The Judge's adverse trustworthiness decision is AFFIRMED.

Signed: Jeffrey D. Billett

Jeffrey D. Billett

Administrative Judge

Member, 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