

KEYWORD: Guideline F

DIGEST: Applicant had one delinquent debt alleged in the SOR, a credit card debt for \$14,000. That debt has since been settled with payment to the creditor of \$3,500. Favorable decision affirmed.

CASENO: 09-01418.a1

DATE: 04/23/2010

DATE: April 23, 2010

In Re:)	
)	
-----)	ISCR Case No. 09-01418
)	
Applicant for Security Clearance)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

D. Michael Lyles, Esq., Department Counsel

FOR APPLICANT

Pro se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On July 22, 2009, 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 January 20, 2010, after considering the record, Administrative Judge Marc E. Curry granted Applicant's request for a security clearance. Department Counsel appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Department Counsel raised the following issues on appeal: whether the Judge substituted a favorable credibility determination for record evidence; and whether the Judge's decision was arbitrary, capricious or contrary to law. Finding no error, we affirm.

The Judge found that Applicant is an employee of a Defense contractor. She had one delinquent debt as of the date of the SOR, a credit card account with a balance of approximately \$14,000. Applicant has since settled the sole debt cited in the SOR by paying the creditor \$3,500.

Department Counsel's arguments focus on the Judge's findings regarding the history of the now settled debt. Department Counsel makes some important points, for example a credibility determination based on the written record is not entitled to the same deference on appeal as a credibility determination based on observation of a witness's demeanor. *See, e.g.*, ISCR Case No. 04-12680 at 3 (App. Bd. May 21, 2007). Also, Applicant's failure to monitor her mother's use of her credit card and to address delinquencies promptly provide evidence of questionable judgment.

However, not all the Judge's findings were challenged. The findings described above were unchallenged. Moreover, the Judge's conclusions that Applicant satisfied the debt, has ample discretionary income to manage her finances and there is no record evidence indicating any other financial problems were not challenged on appeal. These findings and conclusions are sufficient to support the Judge's favorable security clearance decision. Accordingly, we conclude that the Judge's decision is sustainable. "The Board need not agree with a Judge's decision in order to find it sustainable." ISCR Case No. 06-23881 at 2 (App. Bd. Nov. 2, 2007). Furthermore, it is well-settled that a party's disagreement with the Judge's weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 08-05344 at 4 (App. Bd. Feb. 3, 2010).

Order

The Judge's favorable security clearance 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: William S. Fields _____

William S. Fields
Administrative Judge
Member, Appeal Board