

KEYWORD: Guideline F

DIGEST: As the Board has stated in the past, even if an applicant has resolved the alleged financial problems, a Judge may still consider the circumstances related to those problems in evaluating eligibility to access classified information. The Judge's conclusion that Applicant acted irresponsibly in resolving his financial problems, which also reflects negatively on his security clearance eligibility, is sustainable. Adverse Decision Affirmed.

CASE NO: 20-01122.a1

DATE: 09/03/2021

DATE: September 3, 2021

In Re:	)	
	)	
-----	)	ISCR Case No. 20-01122
	)	
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 September 2, 2020, 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 7, 2021, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Darlene D. Lokey Anderson 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 was arbitrary, capricious, or contrary to law. Consistent with the following discussion, we affirm the Judge’s decision.

### **The Judge’s Findings of Fact and Analysis**

Applicant is in his fifties, has retired from the military, has a master’s degree, and works for a defense contractor. The SOR alleged that he failed to file his Federal and state income tax returns for 2013-2018 and that he owed the Federal Government delinquent taxes for 2014, 2016, and 2017. He attributed his tax filing deficiencies to not having documentation substantiating his deductions for 2013 and 2014. He provided documentation showing he filed all of the alleged income tax returns in April 2020. He has also paid the delinquent tax liability.

“Applicant’s conduct established a long pattern of procrastination, delay, irresponsible behavior, and violations of law that the Federal government takes very seriously. Applicant did not act reasonably or responsibly until April 2020. His inaction for so long reflects a pattern of unreliability, untrustworthiness, and poor judgment. Accordingly, Applicant does not meet the requirements to access classified information.” [Decision at 5.]

### **Discussion**

In his brief, Applicant contends that, even though the Judge made findings of fact that he satisfied his Federal and state tax requirements, she did not consider those facts in her decision-making process. A plain reading of the Judge’s decision does not support Applicant’s assertion. The Judge noted in her analysis that Applicant had resolved the alleged tax deficiencies. Applicant has failed to rebut the presumption that the Judge considered all of the record evidence. *See, e.g.*, ISCR Case No. 18-00110 at 5 (App. Bd. Mar. 31, 2020). As the Board has stated in the past, even if an applicant has resolved the alleged financial problems, a Judge may still consider the circumstances related to those problems in evaluating eligibility to access classified information. *See, e.g.*, ISCR Case No. 16-02246 at 2 (App. Bd. Dec. 8, 2017). The Judge’s conclusion that Applicant acted irresponsibly in resolving his financial problems, which also reflects negatively on his security clearance eligibility, is sustainable.

In his brief, Applicant argues that Judge did not carefully consider the evidence. He highlights, for example, that he paid his tax liability, that it was not the result of irresponsible

spending, that he had no intent to evade taxes, that he disclosed his tax filing deficiencies on his security clearance application, and that he does not live beyond his means. His arguments, however, are not sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 17-00257 at 3 (App. Bd. Dec. 7, 2017).

Applicant’s appeal brief fails to establish that the Judge committed any harmful error. The Judge examined the relevant evidence 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, Encl. 2, App. A ¶ 2(b): “Any doubt concerning personnel being considered for national security eligibility 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: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board

Signed: James F. Duffy  
James F. Duffy  
Administrative Judge  
Member, Appeal Board