



**DEPARTMENT OF DEFENSE**  
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**APPEAL BOARD**  
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KEYWORD: Guideline F

DIGEST: It is well established that one delinquent debt may raise security concerns sufficient to deny a security clearance. Adverse decision is affirmed.

CASENO: 19-03940.a1

DATE: 01/10/2022

Date: January 10, 2022

<p>In the matter of:</p> <p style="text-align: center;">-----</p> <p>Applicant for Security Clearance</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>ISCR Case No. 19-03940</p>
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**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Carl Anthony Marrone, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On June 9, 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 hearing. On September 9, 2021, after the hearing, Administrative Judge Nichole L. Noel 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 analysis of the evidence was flawed, resulting in a decision that was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The SOR alleged that Applicant had a charged-off mortgage loan of about \$84,700, a home foreclosure in 2018, a delinquent bank debt of about \$1,000, three state tax liens totaling about \$105,000, and three Federal tax debts totaling about \$315,000. The Judge found against Applicant on two Federal tax debts totaling about \$169,000 and for him on the other allegations. In responding to the SOR, Applicant admitted the two tax debts for which the Judge entered unfavorable findings.

In his brief, Applicant contends that his delinquent tax debts are not a sufficient basis for denying his security clearance. His brief states:

[The Judge] found [SOR ¶¶] 1.h and 1.i against [Applicant]. Both of these concerns cite [Applicant’s] indebtedness to the IRS for a sum of \$169,821. This debt, *alone*, is the basis for denying [Applicant’s] security clearance. This is contrary to the policy behind Guideline F.

To be clear, merely having debt (even a lot of debt) is not a security concern. . . . Rather, a close reading of Guideline F makes it clear that the Government is concerned with granting access to classified information to people with: (1) a particular condition (i.e., addiction, mental health problems, etc.); (2) a particular state of mind (i.e., disregard for the law, unrealistic confidence about one’s finances, etc.); or (3) a particular vulnerability (i.e., susceptible to blackmail or manipulation).

There is nothing in the record to suggest that [Applicant] has any concerning condition, state of mind, or vulnerability. There is not a scintilla of evidence that [Applicant] has a problem with . . . alcohol, gambling, drugs, prostitution, or anything of the sort. There is a complete absence of information that [Applicant] has problems with impulse control. [Appeal Brief at 7.]

This argument lacks merit. Provisions of the Directive should not be construed in a narrow and artificial manner that does not adequately take into account the compelling interest of the United States in protecting and safeguarding classified information and the basic objectives of the industrial security program. *See, e.g.*, ISCR Case No. 02-02195 at 5 (App. Bd. Apr. 9, 2004). A plain reading of Guideline F does not support Applicant’s arguments. He is apparently focusing on the second and third sentences of “*The Concern*” paragraph for Guideline F and ignoring the first sentence, which reads: “Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information.” Directive, Encl. 2, App. A ¶ 18. His interpretation of this guideline also ignores the clear language of the disqualifying conditions that the Judge applied, *i.e.*, that an applicant’s “inability to satisfy debts;” “history of not meeting

financial obligations;” and “. . . failure to pay annual Federal . . . tax as required” “could raise a security concern and may be disqualifying[.]” *Id.* at ¶¶ 19, 19(a), 19(c), and 19(f). Application of those disqualifying conditions is not limited to applicants with addictions, mental problems, or other conditions/circumstances identified in Applicant’s argument.

An applicant’s failure to meet his or her financial obligations in a responsible manner could indicate that he or she may be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. It is well established that one delinquent debt may raise security concerns sufficient to deny a security clearance. *See, e.g.*, ISCR Case No. 14-05366 at 3 (App. Bd. Feb. 5, 2016). Furthermore, the Directive presumes there is a nexus or rational connection between admitted or proven circumstances under any of its guidelines and an applicant’s security eligibility. *Id.* In this case, Applicant’s delinquent tax debts are sufficient to raise Guideline F security concerns.

In his brief, Applicant does not challenge any of the Judge’s specific findings of fact. Instead, he contends the Judge improperly analyzed the evidence. He argues “it is impossible to determine the logic, appropriateness, and fairness of [the Judge’s] approach.” Appeal Brief at 3. This contention is not persuasive. In her analysis, the Judge noted that Applicant and his wife mismanaged their income tax obligations and lived beyond their means. As a result, he experienced financial problems that were not entirely beyond his control. Although he hired a tax attorney to assist him and has not incurred any additional tax delinquencies since 2018, he still owes \$169,000 in delinquent Federal taxes for 2016 and 2017. “While Applicant has demonstrated his willingness to resolve his outstanding federal tax liability, the record does not contain a sufficient history of tax compliance or repayment of his outstanding federal tax debt to fully mitigate the alleged financial considerations.” Decision at 7. The Judge’s conclusions were reasonable inferences drawn from the record evidence. Based on our review of the record, there is no reason to conclude that the Judge’s analysis was illogical, inappropriate, or unfair. A decision is not unfair merely because the Judge denied or revoked an applicant’s security clearance eligibility.

The balance of Applicant’s argument amount to a disagreement with the Judge’s weighing of the evidence. He argues, for example, that the Judge erred by failing to consider important evidence and emphasizing unfavorable over favorable evidence. He also claims that his financial problems were attributable to his ex-wife and that, since separating from her, he has not had any further problems. An applicant’s ability to argue for an alternative interpretation of the record evidence does not demonstrate the Judge’s findings and conclusions are erroneous. *See, e.g.*, ISCR Case No. 99-9020 at 2 (App. Bd. Jun. 4, 2001). Applicant has not rebutted the presumption that the Judge considered all the evidence in the record, nor has he shown the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to the evidence. *See, e.g.*, ISCR Case No. 19-01400 at 2 (App. Bd. Jun. 3, 2020).

Applicant failed to establish the Judge committed any harmful errors. 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 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 national security.”

### **Order**

The decision is **AFFIRMED**.

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

Signed: Moira D. Modzelewski  
Moira D. Modzelewski  
Administrative Judge  
Member, Appeal Board

Signed: Jennifer I. Goldstein  
Jennifer I. Goldstein  
Administrative Judge  
Member, Appeal Board