

KEYWORD: Guideline F

DIGEST: A person with a history of failing to meet tax obligations may be said not have demonstrated the high degree of judgment and reliability required for access to classified information. Adverse decision affirmed.

CASENO: 13-01303.a1

DATE: 01/29/2015

DATE: January 29, 2015

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In Re: )  
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----- ) ISCR Case No. 13-01303  
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Applicant for Security Clearance )  
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**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Kiran Joshi, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On December 30, 2013, 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 October 30, 2014, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Elizabeth M. Matchinski denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

We construe Applicant’s appeal brief as contending that the Judge failed to consider record evidence concerning his efforts to resolve his tax debts. Consistent with the following, we affirm the Judge’s decision.

### **The Judge’s Findings of Fact**

In essence, the Judge found that Applicant did not file timely Federal or state income tax returns for tax years 2009 through 2012. He was experiencing other financial problems, such as mortgage debts, money owed to a homeowner’s association, and other difficulties. He assigned these debts a higher priority than he did his tax obligations. In his answer to the SOR, Applicant contended that his Federal taxes had been paid and that he was in the process of resolving his debt to the state. Despite language in the File of Relevant Material that corroboration of such claims would be beneficial, Applicant did not provide a response. The Judge also found that it is unclear whether Applicant has filed his taxes for 2013. She reopened the record to permit the parties to submit documentation clarifying the issues. Neither did so.

### **The Judge’s Analysis**

The Judge noted that Applicant had paid some of his debts, such as the one to the homeowner’s association. However, she noted that Applicant had not corroborated his claims to have paid his Federal tax debts and to be addressing his state tax obligation. She also stated that without knowing whether he has filed for tax year 2013, she cannot be assured that Applicant can be counted on to comply with the law in future years. She stated that a knowing failure to comply with legal obligations “is antithetical to the good judgment that must be required of those persons entrusted with the Nation’s secrets.” Decision at 8.

### **Discussion**

Applicant’s submission mentions his efforts to resolve his delinquent Federal tax debts. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 11-10255 at 4 (App. Bd. Jul. 28, 2014). He refers to actions taken after the close of the record, which we cannot consider. Directive ¶ E3.1.29 (“No new evidence shall be received or considered by the Appeal Board”).

The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. “Failure . . . to . . . 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 information.” Directive, Enclosure 2 ¶ 18. A person who has a history of failing to meet his or her tax obligations “may be said not to have demonstrated the high degree of judgment and reliability required for access to classified information.” ISCR Case No. 12-05053 at 4 (App. Bd. Oct. 30, 2014). “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, Enclosure 2 ¶ 2(b): “Any doubt concerning personnel being considered for access to classified information 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: Jean E. Smallin  
Jean E. Smallin  
Administrative Judge  
Member, Appeal Board

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