

KEYWORD: Guideline F

DIGEST: Applicant contends that the Judge did not consider evidence of his efforts to resolve his tax liens. He states that he has resolved all of his debts except for those two liens and cites to evidence that he has retained a tax firm to assist him. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. The Judge stated that Applicant did not provide information to corroborate his claim that these liens had been discharged. This comment is consistent with the record that was before him. A person who fails to fulfill his or her legal obligations, such as paying taxes, does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. Adverse decision affirmed.

CASENO: 15-02329.a1

DATE: 11/18/2016

DATE: November 18, 2016

In Re:	)	
	)	
-----	)	ISCR Case No. 15-02329
	)	
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 December 3, 2015, 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). Department Counsel requested a hearing. On August 15, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Michael H. Leonard 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 failed to consider mitigating evidence, rendering the adverse decision arbitrary, capricious, and contrary to law. Consistent with the following, we affirm.

### **The Judge's Findings of Fact**

Applicant has worked for a Defense contractor since 2012. He enjoys a good employment record. He incurred substantial state tax debts when he withdrew money from a retirement account, mistakenly believing that the transactions were tax free. The SOR alleged two liens for delinquent state taxes. Applicant also incurred liens from the IRS for delinquent Federal taxes. Applicant's Federal tax problems were not alleged in the SOR. The Judge stated that he was considering the Federal liens for the limited purpose of understanding the circumstances underlying Applicant's financial problems and his efforts to resolve them.

Applicant could not explain the state liens, believing that his tax obligations had been resolved from proceeds resulting from the sale of a house. Though given an opportunity to present additional evidence after the hearing regarding the state tax debt, he submitted nothing beyond what was already in the record.

### **The Judge's Analysis**

The Judge resolved several allegations in Applicant's favor. These pertained to various collection accounts that were of relatively small amounts. However, he resolved allegations regarding the two state tax liens against Applicant. He stated that Applicant did not present evidence that would corroborate his claim that these liens had been discharged following the sale of his house. The Judge concluded that these liens raised concerns about Applicant's current reliability that were not mitigated.

### **Discussion**

Applicant contends that the Judge did not consider evidence of his efforts to resolve his tax liens. He states that he has resolved all of his debts except for those two liens and cites to evidence

that he has retained a tax firm to assist him. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 14-05795 at 2 (App. Bd. Apr. 26, 2016). The Judge stated that Applicant did not provide information to corroborate his claim that these liens had been discharged through the sale of his house. This comment is consistent with the record that was before him.

The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. A person who fails to fulfill his or her legal obligations, such as paying taxes, does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. *See, e.g.*, ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015). “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 Y. Ra’anan  
Michael Y. Ra’anan  
Administrative Judge  
Chairperson, Appeal Board

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

Signed: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board