

KEYWORD: Guideline F

DIGEST: Applicant cites to his candor in admitting his security-significant conduct and to his having held a clearance for several years without incident or concern. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Adverse decision affirmed.

CASENO: 15-00532.a1

DATE: 06/30/2017

DATE: June 30, 2017

In Re: -----  Applicant for Security Clearance	) ) ) ) ) ) )	ISCR Case No. 15-00532
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**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Roxana Aftahi, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On December 16, 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). Applicant requested a hearing. On April 10, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Wilford H. Ross denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge failed to consider all of the record evidence and whether the Judge failed to apply properly the whole-person concept. Consistent with the following, we affirm.

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

Applicant failed to file Federal and state income tax returns for 2009 and 2010. His state tax returns were not alleged in the SOR, but the Judge stated that he was considering them on the issues of mitigation and the whole-person concept. His admitted reason for these failures was procrastination. He stated that he had no good excuse and that he has been “a chronic procrastinator . . . for most of [his] life.” Decision at 2. Applicant admitted his failure to have filed his returns in his 2012 security clearance application and subsequently in his interview conducted later that year. He stated that he intended to file his returns by the end of 2012. Applicant filed the delinquent returns in 2016. The Judge held the record open for Applicant to provide documents confirming that he had filed his returns. He did not submit anything.

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

The Judge cited to evidence that Applicant had known for years about the Government's concern over his failure to have filed his returns, rendering his failure to address the problem both deliberate and knowing. Filing as recently as he did, assuming that Applicant actually did so, is not sufficient to mitigate the concerns raised by the evidence.

### **Discussion**

Applicant cites to his candor in admitting his security-significant conduct and to his having held a clearance for several years without incident or concern. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 13-00502 at 3 (App. Bd. Mar. 7, 2017). Contrary to Applicant's challenge to the Judge's whole-person analysis, the Judge satisfied the requirements of Directive ¶ 6.3, in that he considered the totality of the evidence in reaching his decision. *See, e.g.*, ISCR Case No. 14-06653 at 3 (App. Bd. Nov. 18, 2016). The Hearing Office case that Applicant cites is not sufficient to undermine the Judge's overall decision. In any event, Hearing Office cases are not binding on other Hearing Office Judges or on the Appeal Board. *See, e.g.*, ISCR Case No. 15-01416 at 3 (App. Bd. Feb. 15, 2017).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. Failure to file tax returns suggests that an applicant has a problem complying with well-established government rules and regulations. Voluntary compliance with such rules and regulations is essential for protecting classified information. *See, e.g.*, ISCR Case No. 15-03208 at 3 (App. Bd. Mar. 7, 2017). 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, 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: James E. Moody

James E. Moody  
Administrative Judge  
Member, Appeal Board

Signed: James F. Duffy

James F. Duffy  
Administrative Judge  
Member, Appeal Board