

KEYWORD: Guideline F

DIGEST: A person who fails repeatedly to fulfill his or her legal obligations, such as paying taxes when due, does not demonstrate the high degree of good judgement and reliability required of those granted access to classified information. Adverse decision affirmed.

CASENO: 15-06534.a1

DATE: 08/03/2017

DATE: August 3, 2017

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| In Re:                           | ) | ) |                        |
| -----                            | ) | ) | ISCR Case No. 15-06534 |
|                                  | ) | ) |                        |
| Applicant for Security Clearance | ) | ) |                        |

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Edward H. Passman, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On March 30, 2016, 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 March 24, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Philip S. Howe 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 evidence in the record and whether the Judge failed properly to apply the relevant mitigating conditions. Consistent with the following, we affirm.

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

Applicant has numerous delinquent debts, for such things as medical expenses, energy bills, etc., totaling almost \$120,000. He demonstrated that he had paid two of them, one for telephone services and another for cable television services. The remainder, however, were not resolved as of the close of the record. Applicant's debts include liens for unpaid state taxes. These liens were listed on Applicant's latest credit report. He stated that he had worked with his state tax authority to recalculate and pay them but was not successful. He submitted no documents to corroborate his claimed disputes of the amounts owed, and these liens are not resolved. A Federal tax lien for nearly \$173,000 was released in 2010. This debt was not alleged in the SOR.

Applicant divorced his wife in 2016. His wife was supposed to pay some of the debts. Applicant took no action after the date of the divorce or even after receipt of the SOR to resolve them.

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

Applicant's conduct is recent and cast doubts upon his current reliability, trustworthiness, and good judgment. He has taken no action to resolve any but two of the debts alleged in the SOR. The Judge concluded that Applicant's problems were not beyond his control. Given his earnings and his net worth, he could have resolved a significant number of his debts. He has had no financial counseling, and there are no indications that his financial difficulties are under control. Applicant provided no documents to support a legitimate basis for disputing his debts.

### **Discussion**

Applicant's appeal submission includes matters from outside the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. Applicant argues that the Judge did not properly apply the mitigating conditions. He cites to circumstances that he believes were outside his control, such as his divorce, that had an impact on his finances. He argues that he has made good-faith efforts to pay his debts and that he has a reasonable basis to dispute the amount of some of his debts. However, Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record, nor has he shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 13-00502 at 3 (App. Bd. Mar. 7, 2017).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. A person who fails repeatedly to fulfill his or her legal obligations, such as paying taxes when due, does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. *See, e.g.*, ISCR Case 14-06808 at 2 (App. Bd. Nov. 23, 2016). 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