

KEYWORD: Guideline F

DIGEST: The Directive does not require that security concerns arising from admitted or proven SOR allegations under one or more of the guidelines be weighed or balanced against non-alleged guidelines in making a whole-person assessment. Adverse decision affirmed.

CASENO: 15-05647.a1

DATE: 05/14/2018

DATE: May 14, 2018

In Re:	)	
	)	
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	)	
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 November 14, 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 January 10, 2018, 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 issues on appeal: whether the Judge improperly applied the whole-person concept and whether the Judge’s adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge found:

Applicant does not dispute that she has a long-standing history of financial problems. The SOR alleged and Applicant admits the following matters: (1) a discharged Chapter 7 bankruptcy in 1997, a dismissed Chapter 13 bankruptcy in 2002, and a discharged Chapter 13 bankruptcy in 2005; (2) failure to timely file federal and state income tax returns for tax years 2011 through 2015; (3) approximately \$17,000 in back taxes owed to the IRS for tax years 2011 through 2013; and (4) several past-due, collection, or charged-off accounts. Most of these matters remain unresolved.<sup>1</sup>

The Judge found in favor of Applicant on certain allegations and against her on others. We need not address Applicant’s allegations of error pertaining to alleged debts for which the Judge found in her favor.

In her appeal brief, Applicant submits a number of documents, most of which post-date the Judge’s decision, showing her efforts to resolve her financial problems and makes representations about those documents. Those documents and representations constitute new evidence that the Appeal Board cannot consider. Directive ¶ E3.1.29.

Applicant also contends that the Judge improperly applied the whole-person concept. She argues the Judge failed to consider the favorable evidence in her security clearance application pertaining to the non-alleged adjudicative guidelines. She argues the favorable evidence regarding those other guidelines outweigh the Guideline F security concerns and highlights that she has never had any security violations. Her arguments are unpersuasive. The Directive does not require that security concerns arising from admitted or proven SOR allegations under one or more of the guidelines be weighed or balanced against non-alleged guidelines in making a whole-person assessment. *See, e.g.*, ISCR Case No. 15-05049 at 2-3 (App. Bd. Jul. 12, 2017). What the Directive requires in making a whole-person assessment is that “[a]ll available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a national

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<sup>1</sup> Decision at 2. A footnote after the first sentence of this quote was omitted.

security eligibility determination.” Directive, Encl. 2, App. A, ¶ 2(a). In this regard, we first note that there is a rebuttable presumption that the Judge considered all of the evidence in the record (*See, e.g.*, ISCR Case No. 15-05049, *supra*, at 3); second, the Judge is not required to discuss each and every piece of record evidence, which would be a practical impossibility (*Id.*); and third, the Government does not need to wait until an applicant has compromised or mishandled classified information before it can deny the applicant a clearance (*See, e.g.*, ISCR Case No. 14-04648 at 3 (App. Bd. Sep. 9, 2015)). Based upon our review of the record, we find no error in the Judge’s whole-person assessment in this case.

Additionally, Applicant presents arguments that set forth the reasons for her financial problems and her efforts to resolve them. Her arguments, however, are neither enough to rebut the presumption that the Judge considered all of the evidence in the record nor sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 15-04856 at 2-3 (App. Bd. March 9, 2017).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on the record. As the Judge noted, Applicant’s failure to file and pay taxes when due suggests that she has a problem with complying with well-established government rules and regulations, which raises concerns about whether she has the high degree of judgment and reliability required for access to classified or sensitive information. Decision at 5-6. “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 ¶ 2.3 and 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: Charles C. Hale  
Charles C. Hale  
Administrative Judge  
Member, Appeal Board

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