

KEYWORD: Guideline F

DIGEST: The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. Adverse decision affirmed.

CASENO: 12-04731.a1

DATE: 01/13/2015

DATE: January 13, 2015

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In Re: )  
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 ----- ) ISCR Case No. 12-04731  
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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**

*Pro se*

The Department of Defense (DoD) declined to grant Applicant a security clearance. On March 20, 2014, 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 September 15, 2014, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge David M. White 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's adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

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

Applicant has worked for a Defense contractor since 2004. Divorced for nine years, he has two daughters who live with his former spouse. This is his first application for a clearance from the DoD, although he has held a clearance in the past.

Applicant admitted 12 of the 16 SOR allegations. The SOR alleges that he did not timely file his Federal tax returns from 2007 through 2010. It also alleges that he has delinquent tax debts owed to the IRS. Applicant made inconsistent statements about his Federal tax issues, and he submitted no tax returns to clarify or corroborate his claims that he had eventually filed. He provided a copy of a repayment agreement with the IRS for tax years 2008 and 2009 but provided nothing regarding tax year 2010. He has provided no evidence of any payments toward his delinquent taxes.

The SOR alleges twelve other delinquent debts, totaling \$12,367. They became delinquent between 2005 and 2012. Although Applicant has a monthly surplus of \$450 after expenses, he provided no evidence of payment of any of these debts.

Applicant provided no evidence of financial counseling. Neither did he submit evidence of the quality of his work performance or of a track record regarding the handling of sensitive information. He submitted no character references describing his judgment, trustworthiness, or reliability.

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

The Judge concluded that Applicant did not provide sufficient evidence to overcome the security concerns raised by his financial delinquencies. He stated that the weight to which his repayment agreement is entitled is reduced by the absence of any evidence of actual payment. In the whole-person analysis, the Judge stated that Applicant's debts exceed \$25,000, and they continue to grow as he fails to address them. He stated that there is no evidence that the debts arose from circumstances beyond Applicant's control, nor is there evidence of the quality of his professional performance or descriptions of his judgment, trustworthiness, integrity, or reliability.

### **Discussion**

Applicant states that he has held a clearance for years without incident or concern. We note his answer in the security clearance application (SCA) in which he states that he has never had a clearance denied, suspended, or revoked. To the extent that he is arguing that the Judge did not consider this answer, he 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). To the extent that he is challenging the Judge’s finding that he provided no evidence regarding his track record of handling sensitive information, we conclude that the Judge’s material findings of security concern are supported by substantial evidence. *See, e.g.*, ISCR Case No. 12-03420 at 3 (App. Bd. Jul. 25, 2014). Even if the Judge erred regarding this answer to the SCA, it did not likely affect the outcome of the case. Therefore, it is harmless.

Applicant’s brief includes matters from outside the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. The Judge examined the relevant data and articulated a satisfactory explanation for the decision. 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: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

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