



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of: )  
)  
) ISCR Case No. 17-03043  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Mary Margaret Foreman, Esq., Department Counsel  
For Applicant: *Pro se*

06/21/2019

**Remand Decision**

HARVEY, Mark, Administrative Judge:

The Defense Office of Hearings and Appeals (DOHA) Appeal Board remanded this case to me to enable me to obtain and include physical copies of four documents in the record. Applicant provided the four documents. They were included in the record, and I returned the file to the Appeal Board. The DOHA Appeal Board remanded the case back to me for a new decision. After review of the entire record, including the four documents, I conclude that Applicant did not make sufficient progress resolving her delinquent debts. She failed to timely file her federal income tax returns for tax years 2013, 2014, and 2015. Financial considerations security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On November 18, 2015, Applicant completed and signed a Questionnaire for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1) On January 16, 2018, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a statement of reasons to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*

(AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2) The SOR set forth security concerns arising under Guideline F.

On January 22, 2018, Applicant responded to the SOR. (HE 3) On April 4, 2018, Department Counsel was ready to proceed. On April 26, 2018, the case was assigned to me. On May 23, 2018, DOHA issued a notice of hearing, setting the hearing for June 13, 2018. (HE 1) Applicant's hearing was held as scheduled. On June 21, 2018, DOHA received the hearing transcript.

On November 27, 2018, I issued a decision denying Applicant's access to classified information. On March 12, 2019, the DOHA Appeal Board remanded the case to me and directed collection of four documents that Applicant presented during the hearing. At the hearing, the content of the four documents was summarized on the record, and the documents were returned to Applicant. The Appeal Board did not ask me to take any action beyond collection of the four documents.

On March 14, 2019, I asked Applicant to provide copies of the exhibits referenced in the transcript at pages 18-21, and I provided a copy of the Appeal Board decision. (Remand Exhibit 1 with two attachments). Applicant provided the requested documents, and they are as follows:

(1) February 8, 2018 letter from bank creditor in SOR ¶ 1.d, indicating the balance owed is \$1,141 and showing a payment of \$315.79 (RE 2 (1 page));

(2) November 15, 2009 lease quote and two pages from an apartment lease for an apartment, signed by Applicant on November 15, 2009, with handwritten notes on page one (RE 3 (3 pages));

(3) Lease for a different property from December 3, 2010, to December 4, 2011 (RE 4 (14 pages)); and

(4) Letter dated April 3, 2018, for a debt being collected by a creditor for a motorcycle, and the letter shows the non-SOR debt was paid in full or settled in full on March 21, 2018 (RE 4 (1 page)).

Email correspondence indicates receipt of the four documents from Applicant. (RE 6) The four documents were provided as directed by the Appeal Board. (RE 2-5)

On April 4, 2019, a copy of my "Remand Order" forwarding the requested documents to the Appeal Board was sent to Applicant; however, due to an administrative error, the remand order was not date stamped.

On June 11, 2019, the Appeal Board remanded the case to me for the second time asking me to issue a new decision in accordance with Directive ¶ E3.1.35. ISCR Case No. 17-03043 (App. Bd. June 11, 2019). A copy of appellate documents the Appeal Board considered were not provided to me.

Some details were excluded from this decision to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

### **Findings of Fact**

In Applicant's SOR response, she admitted the allegations in SOR ¶¶ 1.a through 1.f. (HE 3) She also provided mitigating information. Her admissions are accepted as findings of fact.

At the time of her hearing, Applicant was a 59-year-old specialist in conducting inventories who was employed by a government contractor. (Tr. 5-9) In 1976, she graduated from high school. (Tr. 5) She has about two years of college. (Tr. 6) She married the same man twice, in 1977 and 1984, and they were divorced in 1983 and 1993. (Tr. 6) She married in 2005 and divorced in 2010. (Tr. 6) Her children are ages 37 and 40. (Tr. 6) She adopted her three-year-old granddaughter in 2006, and Applicant had custody of her granddaughter. (Tr. 26-27) She served in the Army from 1976 to 1984; she left active duty as a Specialist 5 (E-5), and she received a general discharge under honorable conditions. (Tr. 7-8) She has been employed by the federal government or a government contractor for 41 years. (Tr. 8-9) There is no evidence of security violations.

### **Financial Considerations**

Applicant received federal civil service retirement pay after July 2014. (Tr. 23-24) She had a period of unemployment from July 2015 to February 2016. (Tr. 22) In 2014, she withdrew \$64,000 from her Thrift Savings Account, which increased her tax liability in 2014. (Tr. 24) The status of the financial issues alleged in the SOR at the time of her hearing were as follows:

SOR ¶ 1.a alleges Applicant failed to timely file her federal income tax returns for tax years 2013 through 2015. For tax year 2013, Applicant said she thought that she filed her tax return about one week after her extension expired. (Tr. 30) The Internal Revenue Service (IRS) advised her in 2017, that the IRS had not received her tax return for tax year 2013. (Tr. 50) The IRS recalculated her tax return, and she did not owe any taxes for tax year 2013. She was supposed to receive a refund; however, since her 2013 tax return was more than three years overdue, the IRS refused to credit her with the refund. Applicant said she did not timely file her tax returns because she was distracted by issues involving her grandchild and children. (Tr. 31) Her son and daughter-in-law are drug addicts; her son was incarcerated; and her grandchild was severely injured. (Tr. 31-32) Her son is not currently incarcerated; however, her daughter is now in jail. (Tr. 33) She described the Office of Personnel Management (OPM) personal subject interview (PSI) as "a kick in the rear" to motivate her to file her federal income tax returns. (Tr. 34)

SOR ¶ 1.b alleges that Applicant owes delinquent federal income taxes for tax years 2013 through 2016. Applicant admitted that she has a debt for unpaid federal income taxes. (Tr. 34) Applicant provided tax transcripts for tax years 2013 through 2016, and information from those tax transcripts (GE 2) is depicted in the following table:

Tax Year	Date Tax Returns Filed	Adjusted Gross Income	Taxes Owed
2013	Nov. 2, 2017		\$0
2014	May 27, 2017	\$200,901	\$8,366
2015	May 27, 2017	\$152,963	\$1,303
2016	May 27, 2017	\$183,545	\$2,541

Applicant owes federal income taxes of \$1,557 for tax year 2017, and she estimated that she owes about \$12,500 in total to the IRS. (Tr. 51; January 24, 2018 IRS letter) In February 2018, Applicant started making payments in compliance with her \$384 monthly payment plan to the IRS. (Tr. 35) Up to the date of her hearing, she had made all of her scheduled payments. (Tr. 35-38)

SOR ¶¶ 1.c and 1.d allege a charged-off debt for \$1,434 and a debt placed for collection for \$1,272 owed to the same creditor. On February 8, 2018, the creditor wrote thanking Applicant for payment of \$315 and stating the current balance owed is \$1,141. (Tr. 19) She conceded she “blew them off” and failed to make payments for several years. (Tr. 41) At the time of her hearing, she planned to continue to make payments until the debt is resolved. (Tr. 41)

SOR ¶ 1.e alleges a charged-off bank debt for \$508. In her SOR response, Applicant said she intended to make two \$254 payments in March 2018. At her hearing, she conceded that she did not get around to making the payments to resolve this debt. (Tr. 41-42)

SOR ¶ 1.f alleges a debt owed to Applicant’s landlord for \$4,223 which was placed for collection. On November 15, 2009, Applicant signed a one-year lease in which she agreed to pay \$1,985 monthly for an apartment. (Tr. 19-20) She said she disputed her responsibility for this debt. (SOR response) She did not provide a copy of the correspondence disputing the debt.

SOR ¶ 1.g alleges a utility debt placed for collection for \$123. Applicant said the creditor agreed she did not owe the debt because it was paid in June 2015. (Tr. 42; SOR response) She asked the creditor to provide updated information to the credit reporting companies. (Tr. 42) The debt does not appear as delinquent on her February 2, 2018 TransUnion, Equifax, and Experian credit reports. (SOR response)

SOR ¶ 1.h alleges Applicant owes a past-due amount of \$294 on a debt for \$5,104. Her SOR response indicated the balance owed is \$4,326, and the account is current. Applicant’s February 2, 2018 credit reports indicate the balance is \$4,479, and her payment is 30 days past due in the amount of \$92. (February 2, 2018 TransUnion credit report at 29; February 2, 2018 Equifax credit report at 24; Experian credit report at 29) Applicant said her payments on this credit card debt are current. (Tr. 42-43)

SOR ¶ 1.i alleges Applicant is past due \$343 on a debt for \$5,003. The debt relates to Applicant’s 2005 vehicle. (Tr. 43) In December 2017, shortly after her son was released from jail, he wrecked Applicant’s vehicle; it did not have insurance; and it is in Applicant’s

garage. (Tr. 43-46) The account is now \$964 past due. (Tr. 43) At her hearing, she said she planned to pay off the debt. (Tr. 44)

On March 21, 2018, Applicant paid a debt for \$16,829 originally owed to a motorcycle company. (Tr. 20, 28) With employer matching, she is contributing \$1,600 monthly into a retirement plan. (Tr. 38)

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v.*

*Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## Analysis

### Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes three disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability to satisfy debts"; "(c) a history of not meeting financial obligations"; and "(f) failure to file . . . annual Federal . . . income tax returns or failure to pay annual Federal, state, or local income tax as required." The record establishes AG ¶¶ 19(a), 19(c), and 19(f).

Seven financial considerations mitigating conditions under AG ¶ 20 are potentially applicable in this case:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;

(f) the affluence resulted from a legal source of income; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

The DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

Applicant provided some mitigating information. She was unemployed from July 2015 to February 2016. Her children became addicted to illegal drugs, and she needed to adopt her grandchild. Her son wrecked her vehicle. She was divorced. These circumstances were beyond her control and adversely affected her finances. She is credited with mitigating the debts in SOR ¶¶ 1.b, 1.c, 1.d, 1.g, and 1.h. She resolved some non-SOR debts, including a large debt relating to a motorcycle, and she made payments to address some other debts.

Applicant did not act responsibly under the circumstances when she failed to: (1) make payments on the debts in SOR ¶¶ 1.e, 1.f, and 1.i; and (2) timely file her federal income returns for tax years 2013, 2014, and 2015. The failure to timely file tax returns is particularly problematic.

A willful failure to timely make (means complete and file with the IRS) a federal income tax return is a misdemeanor-level federal criminal offense. Title 26 U.S.C. § 7203, willful failure to file return, supply information, or pay tax, reads:

Any person . . . required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to . . . make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor . . .

A willful failure to make tax return, keep records, or supply information when required, is a misdemeanor without regard to existence of any tax liability. *Spies v. United States*, 317 U.S. 492 (1943); *United States v. Walker*, 479 F.2d 407 (9<sup>th</sup> Cir. 1973); *United States v. McCabe*, 416 F.2d 957 (7<sup>th</sup> Cir. 1969); *O'Brien v. United States*, 51 F.2d 193 (7<sup>th</sup> Cir. 1931).

For purposes of this decision, I am not weighing Applicant's failure to timely file her federal income tax returns against her as a federal crime. The failure to timely file income tax returns has security implications because:

Failure to file tax returns suggests that an applicant has a problem with complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information. ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). As we have noted in the past, a clearance adjudication is not directed at collecting debts. See, e.g., ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). By the same token, neither is it directed toward *inducing an applicant to file tax returns*. Rather, it is a proceeding aimed at evaluating an applicant's judgment and reliability. *Id.* A person who fails repeatedly to fulfill his or her legal obligations 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). See *Cafeteria & Restaurant Workers Union Local 473 v. McElroy*, 284 F.2d 173, 183 (D.C. Cir. 1960), *aff'd*, 367 U.S. 886 (1961).



ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016) (emphasis in original). See ISCR Case No. 14-05476 at 5 (App. Bd. Mar. 25, 2016) (citing ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002)); ISCR Case No. 14-01894 at 4-5 (App. Bd. Aug. 18, 2015).

The Appeal Board clarified that even in instances where an “[a]pplicant has purportedly corrected [his or her] federal tax problem, and the fact that [applicant] is now motivated to prevent such problems in the future, does not preclude careful consideration of [a]pplicant’s security worthiness in light of [his or her] longstanding prior behavior evidencing irresponsibility” including a failure to timely file federal income tax returns. See ISCR Case No. 15-01031 at 3 and n. 3 (App. Bd. June 15, 2016) (characterizing “no harm, no foul” approach to an Applicant’s course of conduct and employing an “all’s well that ends well” analysis as inadequate to support approval of access to classified information with focus on timing of filing of tax returns after receipt of the SOR).

Applicant did not give good enough reasons for not timely filing her federal income tax returns for tax years 2013, 2014, and 2015. She knew she needed to timely file those federal income tax returns, and she did not show the requisite diligence in filing those tax returns. She did not make sufficient progress resolving the debts in SOR ¶¶ 1.e, 1.f, and 1.i in light of her income from her current employment. There is insufficient assurance that similar problems will not recur in the future. Under all the circumstances, she failed to establish mitigation of financial considerations security concerns.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an Applicant’s eligibility for a security clearance by considering the totality of the Applicant’s conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual’s age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall commonsense judgment based upon careful consideration of the guidelines” and the whole-person concept. My comments under Guideline F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

At the time of her hearing, Applicant was a 59-year-old specialist in conducting inventories. She has about two years of college. Her children are ages 37 and 40. She adopted her three-year-old granddaughter in 2006, and Applicant has custody of her. She

served in the Army from 1976 to 1984; she left active duty as a Specialist 5 under honorable conditions. She has been employed by the federal government or a government contractor for 41 years. She received federal civil service retirement after July 2014.

Applicant provided some important mitigating information. Her finances were adversely affected by circumstances beyond her control. She resolved several debts and made sufficient payments on others to establish payment plans.

The evidence against mitigation is more persuasive. For three years she has received significant income. She did not make sufficient progress resolving three of her SOR debts: SOR ¶ 1.e for about \$508; SOR ¶ 1.f for \$4,223; and SOR ¶ 1.i for \$5,003.

Based on the decisions of the DOHA Appeal Board, the evidence against grant of a security clearance outweighs the positive evidence of her background and financial responsibility. When a tax issue is involved, an administrative judge is required to consider how long an applicant waits to file his or her tax returns, whether the IRS generates the tax returns, and how long the applicant waits after a tax debt arises to begin and complete making payments.

The emphasis of the Appeal Board on security concerns arising from tax cases is instructive. See ISCR Case No. 14-05794 at 7 (App. Bd. July 7, 2016) (reversing grant of security clearance and stating, “His delay in taking action to resolve his tax deficiency for years and then taking action only after his security clearance was in jeopardy undercuts a determination that Applicant has rehabilitated himself and does not reflect the voluntary compliance of rules and regulations expected of someone entrusted with the nation’s secrets.”); ISCR Case No. 14-01894 at 2-6 (App. Bd. Aug. 18, 2015) (reversing grant of a security clearance, discussing lack of detailed corroboration of circumstances beyond applicant’s control adversely affecting finances, noting two tax liens totaling \$175,000 and garnishment of Applicant’s wages, and emphasizing the applicant’s failure to timely file and pay taxes); ISCR Case No. 12-05053 at 4 (App. Bd. Oct. 30, 2014) (reversing grant of a security clearance, noting not all tax returns filed, and insufficient discussion of Applicant’s efforts to resolve tax liens).

More recently, in ISCR Case No. 14-05476 (App. Bd. Mar. 25, 2016) the Appeal Board reversed a grant of a security clearance for a retired E-9 and cited his failure to timely file state tax returns for tax years 2010 through 2013 and federal returns for tax years 2010 through 2012. Before his hearing, he filed his tax returns and paid his tax debts except for \$13,000, which was in an established payment plan. The Appeal Board highlighted his annual income of over \$200,000 and discounted his non-tax expenses, contributions to DOD, expenditures for his children’s private college tuition and expenses, and spouse’s medical problems. The Appeal Board emphasized “the allegations regarding his failure to file tax returns in the first place stating, it is well settled that failure to file tax returns suggest that an applicant has a problem with complying with well-established government rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information.” *Id.* at 5 (citing ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002) (internal quotation marks and brackets omitted).

See also ISCR Case No. 14-03358 at 3, 5 (App. Bd. Oct. 9, 2015) (reversing grant of a security clearance, noting \$150,000 owed to the federal government, and stating “A security clearance represents an obligation to the Federal Government for the protection of national secrets. Accordingly failure to honor other obligations to the Government has a direct bearing on an applicant’s reliability, trustworthiness, and ability to protect classified information.”). An applicant’s uncorroborated statements that all tax returns were filed is insufficient to prove tax returns were actually filed. See ISCR Case No. 15-06440 at 4 (App. Bd. Dec. 26, 2017) (citing e.g., ISCR Case No. 96-0897 at 2-3 (App. Bd. Dec. 9, 1997) and reversing grant of security clearance).

In this case, there is no evidence that the IRS generated her tax returns. She did not file her tax returns for tax years 2013, 2014, and 2015 until 2017. The primary problem here is that Applicant has known that she needed to file federal income tax returns for several years. She had a legal requirement to timely file her tax returns. Her actions raise unmitigated questions about Applicant’s reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18.

It is well settled that once a concern arises regarding an applicant’s security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont*, 913 F. 2d at 1401. Unmitigated financial considerations lead me to conclude that grant of a security clearance to Applicant is not warranted at this time. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more of a track record of behavior consistent with her obligations, Applicant may well be able to demonstrate persuasive evidence of her security clearance worthiness.

I have carefully considered the entire record, including the documents admitted into the record at the direction of the Appeal Board. I have applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. Financial consideration security concerns are not mitigated.

### **Formal Findings**

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a, 1.e, 1.f, and 1.i:	Against Applicant
Subparagraphs 1.b, 1.c, 1.d, 1.g, and 1.h:	For Applicant

## **Conclusion**

In light of all of the circumstances in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Mark Harvey  
Administrative Judge